

Note: This publication is a compilation of the text of selected defense-related health laws, as amended through January 24, 2004, prepared for the Committee on Armed Services of the House of Representatives. While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code; the legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).

Please report any errors to the Committee.

108th Congress }
2d Session }

COMMITTEE PRINT

{ No. 5

DEFENSE-RELATED HEALTH LAWS
(As Amended Through January 23, 2004)
DEFENSE-RELATED LAWS — VOLUME III

PREPARED FOR THE USE OF THE
COMMITTEE ON ARMED SERVICES
OF THE
HOUSE OF REPRESENTATIVES



APRIL 2004

Printed for the use of the Committee on
Armed Services of the House of Representatives
<http://www.house.gov/hasc>

U.S. GOVERNMENT PRINTING OFFICE

91-298

WASHINGTON : 2004

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CODE**

SELECTED PROVISIONS OF TITLE 10, UNITED STATES CODE

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CHAPTER 55—MEDICAL AND DENTAL CARE ¹

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 - 1073. Administration of this chapter.
 - 1073a. Contracts for health care: best value contracting.
 - 1074. Medical and dental care for members and certain former members.
 - 1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days.
 - [1074b. Repealed.]
 - 1074c. Medical care: authority to provide a wig.
 - 1074d. Certain primary and preventive health care services.
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 - 1084. Determinations of dependency.
 - 1085. Medical and dental care from another executive department: reimbursement.
 - 1086. Contracts for health benefits for certain members, former members, and their dependents.

¹In addition to the provisions set forth in this chapter, numerous provisions of law applicable to medical and dental care for members of the uniformed services are enacted in annual defense authorization and defense appropriations Acts. Provisions from those Acts that are of general and continuing applicability, including provisions relating to Uniformed Services Treatment Facilities, the CHAMPUS Reform Initiative, and the TRICARE program, are set forth starting on page 99 of this committee print publication.

- 1086a. Certain former spouses: extension of period of eligibility for health benefits.
- 1086b. Prohibition against requiring retired members to receive health care solely through the Department of Defense.
- 1087. Programing facilities for certain members, former members, and their dependents in construction projects of the uniformed services.
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- 1110. Anthrax vaccine immunization program; procedures for exemptions and monitoring reactions.

§ 1071. Purpose of this chapter

The purpose of this chapter is to create and maintain high morale in the uniformed services by providing an improved and uniform program of medical and dental care for members and certain former members of those services, and for their dependents.

(Added P.L. 85-861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1445; amended P.L. 89-614, §2(1), Sept. 30, 1966, 80 Stat. 862; P.L. 96-513, §511(34)(A), (B), Dec. 12, 1980, 94 Stat. 2922.)

§ 1072. Definitions

In this chapter:

(1) The term “uniformed services” means the armed forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service.

(2) The term “dependent”, with respect to a member or former member of a uniformed service, means—

(A) the spouse;

- (B) the unremarried widow;
- (C) the unremarried widower;
- (D) a child who—

- (i) has not attained the age of 21;

- (ii) has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on the member or former member for over one-half of the child's support;

- (iii) is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a member or former member under clause (i) or (ii) and is, or was at the time of the member's or former member's death, in fact dependent on the member or former member for over one-half of the child's support;

- (E) a parent or parent-in-law who is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support and residing in his household;

- (F) the unremarried former spouse of a member or former member who (i) on the date of the final decree of divorce, dissolution, or annulment, had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of service which is creditable in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay, and (ii) does not have medical coverage under an employer-sponsored health plan;

- (G) a person who (i) is the unremarried former spouse of a member or former member who performed at least 20 years of service which is creditable in determining the member or former member's eligibility for retired or retainer pay, or equivalent pay, and on the date of the final decree of divorce, dissolution, or annulment before April 1, 1985, had been married to the member or former member for a period of at least 20 years, at least 15 of which, but less than 20 of which, were during the period the member or former member performed service creditable in determining the member or former member's eligibility for retired or retainer pay, and (ii) does not have medical coverage under an employer-sponsored health plan;

- (H) a person who would qualify as a dependent under clause (G) but for the fact that the date of the final decree of divorce, dissolution, or annulment of the person is on or after April 1, 1985, except that the term does not include the person after the end of the one-year period beginning on the date of that final decree; and

- (I) an unmarried person who—

- (i) is placed in the legal custody of the member or former member as a result of an order of a court of competent jurisdiction in the United States (or a Ter-

ritory or possession of the United States) for a period of at least 12 consecutive months;

(ii) either—

(I) has not attained the age of 21;

(II) has not attained the age of 23 and is enrolled in a full time course of study at an institution of higher learning approved by the administering Secretary; or

(III) is incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former member under this subparagraph pursuant to subclause (I) or (II);

(iii) is dependent on the member or former member for over one-half of the person's support;

(iv) resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary may by regulation prescribe; and

(v) is not a dependent of a member or a former member under any other subparagraph.

(3) The term “administering Secretaries” means the Secretaries of executive departments specified in section 1073 of this title as having responsibility for administering this chapter.

(4) The term “Civilian Health and Medical Program of the Uniformed Services” means the program authorized under sections 1079 and 1086 of this title and includes contracts entered into under section 1091 or 1097 of this title and demonstration projects under section 1092 of this title.

(5) The term “covered beneficiary” means a beneficiary under this chapter other than a beneficiary under section 1074(a) of this title.

(6) The term “child”, with respect to a member or former member of a uniformed service, means the following:

(A) An unmarried legitimate child.

(B) An unmarried adopted child.

(C) An unmarried stepchild.

(D) An unmarried person—

(i) who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the person by the member or former member; and

(ii) who otherwise meets the requirements specified in paragraph (2)(D).

(7) The term “TRICARE program” means the managed health care program that is established by the Department of Defense under the authority of this chapter, principally section 1097 of this title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

(8) The term “custodial care” means treatment or services, regardless of who recommends such treatment or services or where such treatment or services are provided, that—

(A) can be rendered safely and reasonably by a person who is not medically skilled; or

(B) is or are designed mainly to help the patient with the activities of daily living.

(9) The term “domiciliary care” means care provided to a patient in an institution or homelike environment because—

(A) providing support for the activities of daily living in the home is not available or is unsuitable; or

(B) members of the patient’s family are unwilling to provide the care.

(Added P.L. 85–861, § 1(25)(B), Sept. 2, 1958, 72 Stat. 1446; amended P.L. 89–614, § 2(1), Sept. 30, 1966, 80 Stat. 862; P.L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117; P.L. 96–513, § 115(b), § 511(34)(A), (35), (36), Dec. 12, 1980, 94 Stat. 2877, 2922, 2923; P.L. 97–252, § 1004(a), Sept. 8, 1982, 96 Stat. 737; P.L. 98–525, § 645(a), Oct. 19, 1984, 98 Stat. 2548; P.L. 98–557, § 19(1), Oct. 30, 1984, 98 Stat. 2869; P.L. 99–661, § 701(b), Nov. 14, 1986, 100 Stat. 3898; P.L. 101–189, § 731(a), Nov. 29, 1989, 103 Stat. 1481; P.L. 102–484, § 706, Oct. 23, 1992, 106 Stat. 2433; P.L. 103–160, § 702(a), Nov. 30, 1993, 107 Stat. 1686; P.L. 103–337, § 701(a), Oct. 5, 1994, 108 Stat. 2992; P.L. 105–85, § 711, Nov. 18, 1997, 111 Stat. 1808; P.L. 107–107, §§ 701(c), 708(a)(1), Dec. 28, 2001, 115 Stat. 1160, 1164.)

§ 1073. Administration of this chapter

(a) RESPONSIBLE OFFICIALS.—Except as otherwise provided in this chapter, the Secretary of Defense shall administer this chapter for the armed forces under his jurisdiction, the Secretary of Homeland Security shall administer this chapter for the Coast Guard when the Coast Guard is not operating as a service in the Navy, and the Secretary of Health and Human Services shall administer this chapter for the National Oceanic and Atmospheric Administration and the Public Health Service. This chapter shall be administered consistent with the Assisted Suicide Funding Restriction Act of 1997 (42 U.S.C. 14401 et seq.).

(b) STABILITY IN PROGRAM OF BENEFITS.—The Secretary of Defense shall, to the maximum extent practicable, provide a stable program of benefits under this chapter throughout each fiscal year. To achieve the stability in the case of managed care support contracts entered into under this chapter, the contracts shall be administered so as to implement all changes in benefits and administration on a quarterly basis. However, the Secretary of Defense may implement any such change prior to the next fiscal quarter if the Secretary determines that the change would significantly improve the provision of care to eligible beneficiaries under this chapter.

(Added P.L. 85–861, § 1(25)(B), Sept. 2, 1958, 72 Stat. 1446; amended P.L. 89–614, § 2(1), Sept. 30, 1966, 80 Stat. 862; P.L. 89–718, § 8(a), Nov. 2, 1966, 80 Stat. 1117; P.L. 96–513, § 511(34)(A), (C), (35), (36), Dec. 12, 1980, 94 Stat. 2922, 2923; P.L. 98–557, § 19(2), Oct. 30, 1984, 98 Stat. 2869; P.L. 105–12, § 9(h), Apr. 30, 1997, 111 Stat. 27; P.L. 106–65, §§ 725, 1066(a)(7), Oct. 5, 1999, 113 Stat. 698, 770; P.L. 107–296, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

§ 1073a. Contracts for health care: best value contracting

(a) AUTHORITY.—Under regulations prescribed by the administering Secretaries, health care contracts shall be awarded in the administration of this chapter to the offeror or offerors that will provide the best value to the United States to the maximum extent consistent with furnishing high-quality health care in a manner that protects the fiscal and other interests of the United States.

(b) **FACTORS CONSIDERED.**—In the determination of best value under subsection (a)—

(1) consideration shall be given to the factors specified in the regulations; and

(2) greater weight shall be accorded to technical and performance-related factors than to cost and price-related factors.

(c) **APPLICABILITY.**—The authority under the regulations prescribed under subsection (a) shall apply to any contract in excess of \$5,000,000.

(Added P.L. 106–65, § 722(a), Oct. 5, 1999, 113 Stat. 695.)

§ 1074. Medical and dental care for members and certain former members

(a)(1) Under joint regulations to be prescribed by administering Secretaries, a member of a uniformed service described in paragraph (2) is entitled to medical and dental care in any facility of any uniformed service.

(2) Members of the uniformed services referred to in paragraph (1) are as follows:

(A) A member of a uniformed service on active duty.

(B) A member of a reserve component of a uniformed service who has been commissioned as an officer if—

(i) the member has requested orders to active duty for the member's initial period of active duty following the commissioning of the member as an officer;

(ii) the request for orders has been approved;

(iii) the orders are to be issued but have not been issued; and

(iv) the member does not have health care insurance and is not covered by any other health benefits plan.

(b) Under joint regulations to be prescribed by the administering Secretaries, a member or former member of a uniformed service who is entitled to retired or retainer pay, or equivalent pay may, upon request, be given medical and dental care in any facility of any uniformed service, subject to the availability of space and facilities and the capabilities of the medical and dental staff. The administering Secretaries may, with the agreement of the Secretary of Veterans Affairs, provide care to persons covered by this subsection in facilities operated by the Secretary of Veterans Affairs and determined by him to be available for this purpose on a reimbursable basis at rates approved by the President.

(c)(1) Funds appropriated to a military department, the Department of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy), or the Department of Health and Human Services (with respect to the National Oceanic and Atmospheric Administration and the Public Health Service) may be used to provide medical and dental care to persons entitled to such care by law or regulations, including the provision of such care (other than elective private treatment) in private facilities for members of the uniformed services. If a private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation with the other administering Secretaries, may by regulation require the private facility or health care provider to pro-

vide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program.

(2)(A) Subject to such exceptions as the Secretary of Defense considers necessary, coverage for medical care for members of the uniformed services under this subsection, and standards with respect to timely access to such care, shall be comparable to coverage for medical care and standards for timely access to such care under the managed care option of the TRICARE program known as TRICARE Prime.

(B) The Secretary of Defense shall enter into arrangements with contractors under the TRICARE program or with other appropriate contractors for the timely and efficient processing of claims under this subsection.

(C) The Secretary of Defense shall consult with the other administering Secretaries in the administration of this paragraph.

(3)(A) A member of the uniformed services described in subparagraph (B) may not be required to receive routine primary medical care at a military medical treatment facility.

(B) A member referred to in subparagraph (A) is a member of the uniformed services on active duty who is entitled to medical care under this subsection and who—

(i) receives a duty assignment described in subparagraph (C); and

(ii) pursuant to the assignment of such duty, resides at a location that is more than 50 miles, or approximately one hour of driving time, from the nearest military medical treatment facility adequate to provide the needed care.

(C) A duty assignment referred to in subparagraph (B) means any of the following:

(i) Permanent duty as a recruiter.

(ii) Permanent duty at an educational institution to instruct, administer a program of instruction, or provide administrative services in support of a program of instruction for the Reserve Officers' Training Corps.

(iii) Permanent duty as a full-time adviser to a unit of a reserve component.

(iv) Any other permanent duty designated by the Secretary concerned for purposes of this paragraph.

(d)(1) For the purposes of this chapter, a member of a reserve component of the armed forces who is issued a delayed-effective-date active-duty order, or is covered by such an order, shall be treated as being on active duty for a period of more than 30 days beginning on the later of the date that is—

(A) the date of the issuance of such order; or

(B) 90 days before the date on which the period of active duty is to commence under such order for that member.

(2) In this subsection, the term “delayed-effective-date active-duty order” means an order to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title that provides for active-duty service to begin under such order on a date after the date of the issuance of the order.

(3) This subsection shall cease to be effective on December 31, 2004.

(Added P.L. 85-861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1446; amended P.L. 89-614, §2(2), Sept. 30, 1966, 80 Stat. 862; P.L. 96-513, §511(36), (37), Dec. 12, 1980, 94 Stat. 2923; P.L. 98-525, §1401(e), Oct. 19, 1984, 98 Stat. 2616; P.L. 98-557, §19(3), Oct. 30, 1984, 98 Stat. 2869; P.L. 101-189, §§729, 1621(a)(2), Nov. 29, 1989, 103 Stat. 1481, 1603; P.L. 101-510, §1484(j)(1), Nov. 5, 1990, 104 Stat. 1718; P.L. 104-106, §723, Feb. 10, 1996, 110 Stat. 377; P.L. 104-201, §725(d), Sept. 23, 1996, 110 Stat. 2596; P.L. 105-85, §731(a), Nov. 18, 1997, 111 Stat. 1810; P.L. 106-398, §1(722(a)(1)), Oct. 30, 2000, 114 Stat. 1654, 1654A-185; P.L. 107-296, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; P.L. 108-106, §1116, Nov. 6, 2003, 117 Stat. 1218; P.L. 108-136, §§703, 708, Nov. 24, 2003, 117 Stat. 1527, 1530.)

§ 1074a. Medical and dental care: members on duty other than active duty for a period of more than 30 days

(a) Under joint regulations prescribed by the administering Secretaries, the following persons are entitled to the benefits described in subsection (b):

(1) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease in the line of duty while performing—

(A) active duty for a period of 30 days or less;

(B) inactive-duty training; or

(C) service on funeral honors duty under section 12503 of this title or section 115 of title 32.

(2) Each member of a uniformed service who incurs or aggravates an injury, illness, or disease while traveling directly to or from the place at which that member is to perform or has performed—

(A) active duty for a period of 30 days or less;

(B) inactive-duty training; or

(C) service on funeral honors duty under section 12503 of this title or section 115 of title 32.

(3) Each member of the armed forces who incurs or aggravates an injury, illness, or disease in the line of duty while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training.

(4) Each member of the armed forces who incurs or aggravates an injury, illness, or disease in the line of duty while remaining overnight immediately before serving on funeral honors duty under section 12503 of this title or section 115 of title 32 at or in the vicinity of the place at which the member was to so serve, if the place is outside reasonable commuting distance from the member's residence.

(b) A person described in subsection (a) is entitled to—

(1) the medical and dental care appropriate for the treatment of the injury, illness, or disease of that person until the resulting disability cannot be materially improved by further hospitalization or treatment; and

(2) subsistence during hospitalization.

(c) A member is not entitled to benefits under subsection (b) if the injury, illness, or disease, or aggravation of an injury, illness, or disease described in subsection (a)(2), is the result of the gross negligence or misconduct of the member.

(d)(1) The Secretary of the Army shall provide to members of the Selected Reserve of the Army who are assigned to units sched-

uled for deployment within 75 days after mobilization the following medical and dental services:

- (A) An annual medical screening.
 - (B) For members who are over 40 years of age, a full physical examination not less often than once every two years.
 - (C) An annual dental screening.
 - (D) The dental care identified in an annual dental screening as required to ensure that a member meets the dental standards required for deployment in the event of mobilization.
- (2) The services provided under this subsection shall be provided at no cost to the member.

(e)(1) A member of a uniformed service on active duty for health care or recuperation reasons, as described in paragraph (2), is entitled to medical and dental care on the same basis and to the same extent as members covered by section 1074(a) of this title while the member remains on active duty.

(2) Paragraph (1) applies to a member described in paragraph (1) or (2) of subsection (a) who, while being treated for (or recovering from) an injury, illness, or disease incurred or aggravated in the line of duty, is continued on active duty pursuant to a modification or extension of orders, or is ordered to active duty, so as to result in active duty for a period of more than 30 days.

(f)(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty for a period of more than 30 days, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.

(2) The notification to members of the Ready Reserve described in paragraph (1) shall include notice that the members are eligible for screening and care under this section.

(3) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.

(Added P.L. 98–94, § 1012(a)(1), Sept. 24, 1983, 97 Stat. 664; amended P.L. 98–525, § 631(a), Oct. 19, 1984, 98 Stat. 2542; P.L. 98–557, § 19(4), Oct. 30, 1984, 98 Stat. 2869; P.L. 99–145, § 1303(a)(7), Nov. 8, 1985, 99 Stat. 738; revised in its entirety P.L. 99–661, § 604(a)(1), Nov. 14, 1986, 100 Stat. 3874; P.L. 104–106, § 702(a), 704(a), Feb. 10, 1996, 110 Stat. 371, 372; P.L. 105–85, § 513(a), Nov. 18, 1997, 111 Stat. 1730; P.L. 106–65, §§ 578(i)(1), 705(b), Oct. 5, 1999, 113 Stat. 629, 683; P.L. 107–107, § 513(a), Dec. 28, 2001, 115 Stat. 1093; P.L. 108–106, § 1114, Nov. 6, 2003, 117 Stat. 1216; P.L. 108–136, § 701, Nov. 24, 2003, 117 Stat. 1525.)

[§ 1074b. Repealed. P.L. 107–107, 736(c)(1), Dec. 28, 2001, 115 Stat. 1173]

§ 1074c. Medical care: authority to provide a wig

A person entitled to medical care under this chapter who has alopecia resulting from the treatment of a malignant disease may be furnished a wig if the person has not previously been furnished one at the expense of the United States.

(Added as § 1074b P.L. 98–525, § 1401(e)(2), Oct. 19, 1984, 98 Stat. 2616; redesignated § 1074c P.L. 102–190, § 640(a)(1), Dec. 5, 1991, 105 Stat. 1385.)

§ 1074d. Certain primary and preventive health care services

(a) SERVICES AVAILABLE.—(1) Female members and former members of the uniformed services entitled to medical care under

section 1074 or 1074a of this title shall also be entitled to primary and preventive health care services for women as part of such medical care.

(2) Male members and former members of the uniformed services entitled to medical care under section 1074 or 1074a of this title shall also be entitled to preventive health care screening for colon or prostate cancer at such intervals and using such screening methods as the administering Secretaries consider appropriate.

(b) DEFINITION.—In this section, the term “primary and preventive health care services for women” means health care services, including related counseling services, provided to women with respect to the following:

- (1) Papanicolaou tests (pap smear).
- (2) Breast examinations and mammography.
- (3) Comprehensive obstetrical and gynecological care, including care related to pregnancy and the prevention of pregnancy.
- (4) Infertility and sexually transmitted diseases, including prevention.
- (5) Menopause, including hormone replacement therapy and counseling regarding the benefits and risks of hormone replacement therapy.
- (6) Physical or psychological conditions arising out of acts of sexual violence.
- (7) Gynecological cancers.
- (8) Colon cancer screening, at the intervals and using the screening methods prescribed under subsection (a)(2).

(Added P.L. 103–160, § 701(a)(1), Nov. 30, 1993, 107 Stat. 1685; amended P.L. 104–201, § 701(a)(1), (2)(A), Sept. 23, 1996, 110 Stat. 2587.)

§ 1074e. Medical care: certain Reserves who served in Southwest Asia during the Persian Gulf Conflict

(a) ENTITLEMENT TO MEDICAL CARE.—A member of the armed forces described in subsection (b) is entitled to medical care for a qualifying Persian Gulf symptom or illness to the same extent and under the same conditions (other than the requirement that the member be on active duty) as a member of a uniformed service who is entitled to such care under section 1074(a) of this title.

(b) COVERED MEMBERS.—Subsection (a) applies to a member of a reserve component who—

- (1) is a Persian Gulf veteran;
- (2) has a qualifying Persian Gulf symptom or illness; and
- (3) is not otherwise entitled to medical care for such symptom or illness under this chapter and is not otherwise eligible for hospital care and medical services for such symptom or illness under section 1710 of title 38.

(c) DEFINITIONS.—In this section:

(1) The term “Persian Gulf veteran” means a member of the armed forces who served on active duty in the Southwest Asia theater of operations during the Persian Gulf Conflict.

(2) The term “qualifying Persian Gulf symptom or illness” means, with respect to a member described in subsection (b), a symptom or illness—

- (A) that the member registered before September 1, 1997, in the Comprehensive Clinical Evaluation Program

of the Department of Defense and that is presumed under section 721(d) of the National Defense Authorization Act for Fiscal Year 1995 (10 U.S.C. 1074 note) to be a result of service in the Southwest Asia theater of operations during the Persian Gulf Conflict; or

(B) that the member registered before September 1, 1997, in the Persian Gulf War Veterans Health Registry maintained by the Department of Veterans Affairs pursuant to section 702 of the Persian Gulf War Veterans' Health Status Act (38 U.S.C. 527 note).

(Added P.L. 105–85, § 764(a), Nov. 18, 1997, 111 Stat. 1825.)

§ 1074f. Medical tracking system for members deployed overseas

(a) **SYSTEM REQUIRED.**—The Secretary of Defense shall establish a system to assess the medical condition of members of the armed forces (including members of the reserve components) who are deployed outside the United States or its territories or possessions as part of a contingency operation (including a humanitarian operation, peacekeeping operation, or similar operation) or combat operation.

(b) **ELEMENTS OF SYSTEM.**—The system described in subsection (a) shall include the use of predeployment medical examinations and postdeployment medical examinations (including an assessment of mental health and the drawing of blood samples) to accurately record the medical condition of members before their deployment and any changes in their medical condition during the course of their deployment. The postdeployment examination shall be conducted when the member is redeployed or otherwise leaves an area in which the system is in operation (or as soon as possible thereafter).

(c) **RECORDKEEPING.**—The results of all medical examinations conducted under the system, records of all health care services (including immunizations) received by members described in subsection (a) in anticipation of their deployment or during the course of their deployment, and records of events occurring in the deployment area that may affect the health of such members shall be retained and maintained in a centralized location to improve future access to the records.

(d) **QUALITY ASSURANCE.**—The Secretary of Defense shall establish a quality assurance program to evaluate the success of the system in ensuring that members described in subsection (a) receive predeployment medical examinations and postdeployment medical examinations and that the recordkeeping requirements with respect to the system are met.

(Added P.L. 105–85, § 765(a), Nov. 18, 1997, 111 Stat. 1826.)

§ 1074g. Pharmacy benefits program

(a) **PHARMACY BENEFITS.**—(1) The Secretary of Defense, after consulting with the other administering Secretaries, shall establish an effective, efficient, integrated pharmacy benefits program under this chapter (hereinafter in this section referred to as the “pharmacy benefits program”).

(2)(A) The pharmacy benefits program shall include a uniform formulary of pharmaceutical agents, which shall assure the avail-

ability of pharmaceutical agents in the complete range of therapeutic classes. The selection for inclusion on the uniform formulary of particular pharmaceutical agents in each therapeutic class shall be based on the relative clinical and cost effectiveness of the agents in such class.

(B) In considering the relative clinical effectiveness of agents under subparagraph (A), the Secretary shall presume inclusion in a therapeutic class of a pharmaceutical agent, unless the Pharmacy and Therapeutics Committee established under subsection (b) finds that a pharmaceutical agent does not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness, or clinical outcome over the other drugs included on the uniform formulary.

(C) In considering the relative cost effectiveness of agents under subparagraph (A), the Secretary shall rely on the evaluation by the Pharmacy and Therapeutics Committee of the costs of agents in a therapeutic class in relation to the safety, effectiveness, and clinical outcomes of such agents.

(D) The Secretary shall establish procedures for the selection of particular pharmaceutical agents for the uniform formulary. Such procedures shall be established so as best to accomplish, in the judgment of the Secretary, the objectives set forth in paragraph (1). No pharmaceutical agent may be excluded from the uniform formulary except upon the recommendation of the Pharmacy and Therapeutics Committee. The Secretary shall begin to implement the uniform formulary not later than October 1, 2000.

(E) Pharmaceutical agents included on the uniform formulary shall be available to eligible covered beneficiaries through—

(i) facilities of the uniformed services, consistent with the scope of health care services offered in such facilities;

(ii) retail pharmacies designated or eligible under the TRICARE program or the Civilian Health and Medical Program of the Uniformed Services to provide pharmaceutical agents to covered beneficiaries; or

(iii) the national mail-order pharmacy program.

(3) The pharmacy benefits program shall assure the availability of clinically appropriate pharmaceutical agents to members of the armed forces, including, where appropriate, agents not included on the uniform formulary described in paragraph (2).

(4) The pharmacy benefits program may provide that prior authorization be required for certain pharmaceutical agents to assure that the use of such agents is clinically appropriate.

(5) The pharmacy benefits program shall assure the availability to eligible covered beneficiaries of pharmaceutical agents not included on the uniform formulary. Such pharmaceutical agents shall be available through at least one of the means described in paragraph (2)(E) under terms and conditions that may include cost sharing by the eligible covered beneficiary in addition to any such cost sharing applicable to agents on the uniform formulary.

(6) The Secretary, in the regulations prescribed under subsection (g), may establish cost sharing requirements (which may be established as a percentage or fixed dollar amount) under the pharmacy benefits program for generic, formulary, and nonformulary agents. For nonformulary agents, cost sharing shall be consistent

with common industry practice and not in excess of amounts generally comparable to 20 percent for beneficiaries covered by section 1079 of this title or 25 percent for beneficiaries covered by section 1086 of this title.

(7) The Secretary shall establish procedures for eligible covered beneficiaries to receive pharmaceutical agents that are not included on the uniform formulary but that are considered to be clinically necessary. Such procedures shall include peer review procedures under which the Secretary may determine that there is a clinical justification for the use of a pharmaceutical agent that is not on the uniform formulary, in which case the pharmaceutical agent shall be provided under the same terms and conditions as an agent on the uniform formulary. Such procedures shall also include an expeditious appeals process for an eligible covered beneficiary, or a network or uniformed provider on behalf of the beneficiary, to establish clinical justification for the use of a pharmaceutical agent that is not on the uniform formulary.

(8) In carrying out this subsection, the Secretary shall ensure that an eligible covered beneficiary may continue to receive coverage for any maintenance pharmaceutical that is not on the uniform formulary and that was prescribed for the beneficiary before October 5, 1999, and stabilized the medical condition of the beneficiary.

(b) ESTABLISHMENT OF COMMITTEE.—(1) The Secretary of Defense shall, in consultation with the Secretaries of the military departments, establish a Pharmacy and Therapeutics Committee for the purpose of developing the uniform formulary of pharmaceutical agents required by subsection (a), reviewing such formulary on a periodic basis, and making additional recommendations regarding the formulary as the committee determines necessary and appropriate. The committee shall include representatives of pharmacies of the uniformed services facilities and representatives of providers in facilities of the uniformed services. Committee members shall have expertise in treating the medical needs of the populations served through such entities and in the range of pharmaceutical and biological medicines available for treating such populations. The committee shall function under procedures established by the Secretary under the regulations prescribed under subsection (g).

(2) Not later than 90 days after the establishment of the Pharmacy and Therapeutics Committee by the Secretary, the committee shall convene to design a proposed uniform formulary for submission to the Secretary. After such 90-day period, the committee shall meet at least quarterly and shall, during meetings, consider for inclusion on the uniform formulary under the standards established in subsection (a) any drugs newly approved by the Food and Drug Administration.

(c) ADVISORY PANEL.—(1) Concurrent with the establishment of the Pharmacy and Therapeutics Committee under subsection (b), the Secretary shall establish a Uniform Formulary Beneficiary Advisory Panel to review and comment on the development of the uniform formulary. The Secretary shall consider the comments of the panel before implementing the uniform formulary or implementing changes to the uniform formulary.

(2) The Secretary shall determine the size and membership of the panel established under paragraph (1), which shall include members that represent—

(A) nongovernmental organizations and associations that represent the views and interests of a large number of eligible covered beneficiaries;

(B) contractors responsible for the TRICARE retail pharmacy program;

(C) contractors responsible for the national mail-order pharmacy program; and

(D) TRICARE network providers.

(d) PROCEDURES.—(1) In the operation of the pharmacy benefits program under subsection (a), the Secretary of Defense shall assure through management and new contractual arrangements that financial resources are aligned such that the cost of prescriptions is borne by the organization that is financially responsible for the health care of the eligible covered beneficiary.

(2) Effective not later than April 5, 2000, the Secretary shall use a modification to the bid price adjustment methodology in the current managed care support contracts to ensure equitable and timely reimbursement to the TRICARE managed care support contractors for pharmaceutical products delivered in the nonmilitary environments. The methodology shall take into account the “at-risk” nature of the contracts as well as managed care support contractor pharmacy costs attributable to changes to pharmacy service or formulary management at military medical treatment facilities, and other military activities and policies that affect costs of pharmacy benefits provided through the Civilian Health and Medical Program of the Uniformed Services. The methodology shall also account for military treatment facility costs attributable to the delivery of pharmaceutical products in the military facility environment which were prescribed by a network provider.

(e) PHARMACY DATA TRANSACTION SERVICE.—The Secretary of Defense shall implement the use of the Pharmacy Data Transaction Service in all fixed facilities of the uniformed services under the jurisdiction of the Secretary, in the TRICARE retail pharmacy program, and in the national mail-order pharmacy program.

(f) DEFINITIONS.—In this section:

(1) The term “eligible covered beneficiary” means a covered beneficiary for whom eligibility to receive pharmacy benefits through the means described in subsection (a)(2)(E) is established under this chapter or another provision of law.

(2) The term “pharmaceutical agent” means drugs, biological products, and medical devices under the regulatory authority of the Food and Drug Administration.

(g) REGULATIONS.—The Secretary of Defense shall, after consultation with the other administering Secretaries, prescribe regulations to carry out this section.

(Added P.L. 106–65, § 701(a)(1), Oct. 5, 1999, 113 Stat. 677; amended P.L. 106–398, § 1[§ 1087(a)(5)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290; P.L. 107–107, § 1048(c)(4), Dec. 28, 2001, 115 Stat. 1226; P.L. 108–136, § 725, Nov. 24, 2003, 117 Stat. 1535.)

§ 1074h. Medical and dental care: medal of honor recipients; dependents

(a) MEDAL OF HONOR RECIPIENTS.—A former member of the armed forces who is a Medal of Honor recipient and who is not otherwise entitled to medical and dental benefits under this chapter may, upon request, be given medical and dental care provided by the administering Secretaries in the same manner as if entitled to retired pay.

(b) IMMEDIATE DEPENDENTS.—A person who is an immediate dependent of a Medal of Honor recipient and who is not otherwise entitled to medical and dental benefits under this chapter may, upon request, be given medical and dental care provided by the administering Secretaries in the same manner as if the Medal of Honor recipient were, or (if deceased) was at the time of death, entitled to retired pay.

(c) DEFINITIONS.—In this section:

(1) The term “Medal of Honor recipient” means a person who has been awarded a medal of honor under section 3741, 6241, or 8741 of this title or section 491 of title 14.

(2) The term “immediate dependent” means a dependent described in subparagraph (A), (B), (C), or (D) of section 1072(2) of this title.

(Added P.L. 106–398, § 1[§ 706(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–175.)

§ 1074i. Reimbursement for certain travel expenses

(a) IN GENERAL.—In any case in which a covered beneficiary is referred by a primary care physician to a specialty care provider who provides services more than 100 miles from the location in which the primary care provider provides services to the covered beneficiary, the Secretary shall provide reimbursement for reasonable travel expenses for the covered beneficiary and, when accompanied by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary’s family who is at least 21 years of age.

(b) DEFINITIONS.—In this section:

(1) The term “specialty care provider” includes a dental specialist.

(2) The term “dental specialist” means an oral surgeon, orthodontist, prosthodontist, periodontist, endodontist, or pediatric dentist, and includes such other providers of dental care and services as determined appropriate by the Secretary of Defense.

(Added P.L. 106–398, § 1[§ 758(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–199; amended P.L. 107–107, § 706, Dec. 28, 2001, 115 Stat. 1163; P.L. 108–136, § 712, Nov. 24, 2003, 117 Stat. 1530.)

§ 1074j. Sub-acute care program

(a) ESTABLISHMENT.—The Secretary of Defense shall establish an effective, efficient, and integrated sub-acute care benefits program under this chapter (hereinafter referred to in this section as the “program”). Except as otherwise provided in this section, the types of health care authorized under the program shall be the same as those provided under section 1079 of this title. The Secretary, after consultation with the other administering Secretaries, shall promulgate regulations to carry out this section.

(b) **BENEFITS.**—(1) The program shall include a uniform skilled nursing facility benefit that shall be provided in the manner and under the conditions described in section 1861 (h) and (i) of the Social Security Act (42 U.S.C. 1395x (h) and (i)), except that the limitation on the number of days of coverage under section 1812 (a) and (b) of such Act (42 U.S.C. 1395d (a) and (b)) shall not be applicable under the program. Skilled nursing facility care for each spell of illness shall continue to be provided for as long as medically necessary and appropriate.

(2) In this subsection:

(A) The term “skilled nursing facility” has the meaning given such term in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)).

(B) The term “spell of illness” has the meaning given such term in section 1861(a) of such Act (42 U.S.C. 1395x(a)).

(3) The program shall include a comprehensive, part-time or intermittent home health care benefit that shall be provided in the manner and under the conditions described in section 1861(m) of the Social Security Act (42 U.S.C. 1395x(m)).

(Added P.L. 107–107, § 701(a)(1), Dec. 28, 2001, 115 Stat. 1158.)

§ 1074k. Long-term care insurance

Provisions regarding long-term care insurance for members and certain former members of the uniformed services and their families are set forth in chapter 90 of title 5.

(Added P.L. 107–107, § 701(f)(1), Dec. 28, 2001, 115 Stat. 1161.)

§ 1075. Officers and certain enlisted members: subsistence charges

(a) **IN GENERAL.**—When an officer or former officer of a uniformed service, or an enlisted member of a uniformed service entitled to basic allowance for subsistence, is hospitalized under section 1074 of this title, he shall pay an amount equal to the part of the charge prescribed under section 1078 of this title that is attributable to subsistence.

(b) **EXCEPTIONS.**—Subsection (a) shall not apply to any of the following:

(1) An enlisted member, or former enlisted member, of a uniformed service who is entitled to retired or retainer pay or equivalent pay.

(2)² An officer or former officer of a uniformed service, or an enlisted member or former enlisted member of a uniformed service not described in paragraph (1), who is hospitalized

²Subsection (b) of section 1075 was added by section 8146(a) of P.L. 108–87 (117 Stat. 1109). Section 8146(b) of P.L. 108–87, as amended by section 1112(b) of P.L. 108–106 (117 Stat. 1215), provides:

(b) **EFFECTIVE DATE.**—(1) Subsection (b)(2) of section 1075 of title 10, United States Code, as added by subsection (a), shall apply with respect to any period of hospitalization on or after September 11, 2001, because of an injury covered by that subsection that is incurred on or after that date.

(2) The Secretary concerned (as defined in section 101 of title 37, United States Code) shall take such action as necessary to implement paragraph (1), including—

(A) refunding any amount previously paid under section 1075 of title 10, United States Code, by a person who, by reason of paragraph (1), is not required to make such payment; and

(B) waiving recovery of any unpaid amount for which a person has previously been charged under that section and which that person, by reason of paragraph (1), is not required to pay.

under section 1074 because of an injury incurred (as determined under criteria prescribed by the Secretary of Defense)—

- (A) as a direct result of armed conflict;
- (B) while engaged in hazardous service;
- (C) in the performance of duty under conditions simulating war; or
- (D) through an instrumentality of war.

(Added P.L. 85-861, § 1(25)(B), Sept. 2, 1958, 72 Stat. 1447; amended P.L. 97-22, § 10(b)(2), July 10, 1981, 95 Stat. 137; P.L. 108-87, § 8146(a), Sept. 30, 2003, 117 Stat. 1109; P.L. 108-106, § 1112(a), Nov. 6, 2003, 117 Stat. 1215.)

§ 1076. Medical and dental care for dependents: general rule

(a)(1) A dependent described in paragraph (2) is entitled, upon request, to the medical and dental care prescribed by section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff.

(2) A dependent referred to in paragraph (1) is a dependent of a member of a uniformed service described in one of the following subparagraphs:

(A) A member who is on active duty for a period of more than 30 days or died while on that duty.

(B) A member who died from an injury, illness, or disease incurred or aggravated—

(i) while the member was on active duty under a call or order to active duty of 30 days or less, on active duty for training, or on inactive-duty training; or

(ii) while the member was traveling to or from the place at which the member was to perform, or had performed, such active duty, active duty for training, or inactive-duty training.

(C) A member who died from an injury, illness, or disease incurred or aggravated in the line of duty while the member remained overnight immediately before the commencement of inactive-duty training, or while the member remained overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training.

(D) A member on active duty who is entitled to benefits under subsection (e) of section 1074a of this title by reason of paragraph (1), (2), or (3) of subsection (a) of such section.

(E) A member who died from an injury, illness, or disease incurred or aggravated while the member—

(i) was serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

(ii) was traveling to or from the place at which the member was to so serve; or

(iii) remained overnight at or in the vicinity of that place immediately before so serving, if the place is outside reasonable commuting distance from the member's residence.

(b) Under regulations to be prescribed jointly by the administering Secretaries, a dependent of a member or former member—

(1) who is, or (if deceased) was at the time of his death, entitled to retired or retainer pay or equivalent pay; or

(2) who died before attaining age 60 and at the time of his death would have been eligible for retired pay under chapter 1223 of this title (or under chapter 67 of this title as in effect before December 1, 1994) but for the fact that he was under 60 years of age;

may, upon request, be given the medical and dental care prescribed by section 1077 of this title in facilities of the uniformed services, subject to the availability of space and facilities and the capabilities of the medical and dental staff, except that a dependent of a member or former member described in paragraph (2) may not be given such medical or dental care until the date on which such member or former member would have attained age 60.

(c) A determination by the medical or dental officer in charge, or the contract surgeon in charge, or his designee, as to the availability of space and facilities and to the capabilities of the medical and dental staff is conclusive. Care under this section may not be permitted to interfere with the primary mission of those facilities.

(d) To utilize more effectively the medical and dental facilities of the uniformed services, the administering Secretaries shall prescribe joint regulations to assure that dependents entitled to medical or dental care under this section will not be denied equal opportunity for that care because the facility concerned is that of a uniformed service other than that of the member.

(e)(1) Subject to paragraph (3), the administering Secretary shall furnish an abused dependent of a former member of a uniformed service described in paragraph (4), during that period that the abused dependent is in receipt of transitional compensation under section 1059 of this title, with medical and dental care, including mental health services, in facilities of the uniformed services in accordance with the same eligibility and benefits as were applicable for that abused dependent during the period of active service of the former member.

(2) Subject to paragraph (3), upon request of any dependent of a former member of a uniformed service punished for an abuse described in paragraph (4), the administering Secretary for such uniformed service may furnish medical care in facilities of the uniformed services to the dependent for the treatment of any adverse health condition resulting from such dependent's knowledge of (A) the abuse, or (B) any injury or illness suffered by the abused person as a result of such abuse.

(3) Medical and dental care furnished to a dependent of a former member of the uniformed services in facilities of the uniformed services under paragraph (1) or (2)—

(A) shall be limited to the health care prescribed by section 1077 of this title; and

(B) shall be subject to the availability of space and facilities and the capabilities of the medical and dental staff.

(4)(A) A former member of a uniformed service referred to in paragraph (1) is a member who—

(i) received a dishonorable or bad-conduct discharge or was dismissed from a uniformed service as a result of a court-martial conviction for an offense, under either military or civil law, involving abuse of a dependent of the member; or

(ii) was administratively discharged from a uniformed service as a result of such an offense.

(B) A determination of whether an offense involved abuse of a dependent of the member shall be made in accordance with regulations prescribed by the administering Secretary for such uniformed service.

(f)(1) The administering Secretaries shall furnish an eligible dependent a physical examination that is required by a school in connection with the enrollment of the dependent as a student in that school.

(2) A dependent is eligible for a physical examination under paragraph (1) if the dependent—

(A) is entitled to receive medical care under subsection (a) or is authorized to receive medical care under subsection (b); and

(B) is at least 5 years of age and less than 12 years of age.

(3) Nothing in paragraph (2) may be construed to prohibit the furnishing of a school-required physical examination to any dependent who, except for not satisfying the age requirement under that paragraph, would otherwise be eligible for a physical examination required to be furnished under this subsection.

(Added P.L. 85-861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1447; amended P.L. 89-614, §2(3), Sept. 30, 1966, 80 Stat. 862; P.L. 95-397, §301, Sept. 30, 1978, 92 Stat. 849; P.L. 96-513, §511(36), Dec. 12, 1980, 94 Stat. 2923; P.L. 97-252, §1004(b), Sept. 8, 1982, 96 Stat. 737; P.L. 98-557, §19(5), Oct. 30, 1984, 98 Stat. 2869; P.L. 99-145, §652(a), Nov. 8, 1985, 99 Stat. 656; P.L. 99-661, §§604(f)(1)(C), 652(c), Nov. 14, 1986, 100 Stat. 3877, 3889; P.L. 100-456, §651(a), Sept. 29, 1988, 102 Stat. 1990; P.L. 101-189, §§653(a)(4), 731(c)(1), Nov. 29, 1989, 103 Stat. 1462, 1482; P.L. 103-337, §§704(a), (b), 1671(c)(7)(A), 108 Stat. 2798, 3014; P.L. 104-106, §§703, 1501(c)(11), Feb. 10, 1996, 110 Stat. 372, 499; P.L. 105-85, §513(b), Nov. 18, 1997, 111 Stat. 1730; P.L. 105-261, §732, Oct. 17, 1998, 112 Stat. 2071; P.L. 106-65, §§578(i)(2), 705(c), Oct. 5, 1999, 113 Stat. 629, 684; P.L. 106-398, §1[§703], Oct. 30, 2000, 114 Stat. 1654, 1654A-174; P.L. 107-107, §513(a), Dec. 28, 2001, 115 Stat. 1093.)

§ 1076a. TRICARE dental program

(a) ESTABLISHMENT OF DENTAL PLANS.—The Secretary of Defense may establish, and in the case of the dental plan described in paragraph (1) shall establish, the following voluntary enrollment dental plans:

(1) PLAN FOR SELECTED RESERVE AND INDIVIDUAL READY RESERVE.—A dental insurance plan for members of the Selected Reserve of the Ready Reserve and for members of the Individual Ready Reserve described in subsection 10144(b) of this title.

(2) PLAN FOR OTHER RESERVES.—A dental insurance plan for members of the Individual Ready Reserve not eligible to enroll in the plan established under paragraph (1).

(3) PLAN FOR ACTIVE DUTY DEPENDENTS.—Dental benefits plans for eligible dependents of members of the uniformed services who are on active duty for a period of more than 30 days.

(4) PLAN FOR READY RESERVE DEPENDENTS.—A dental benefits plan for eligible dependents of members of the Ready Reserve of the reserve components who are not on active duty for more than 30 days.

(b) ADMINISTRATION OF PLANS.—The plans established under this section shall be administered under regulations prescribed by the Secretary of Defense in consultation with the other administering Secretaries.

(c) CARE AVAILABLE UNDER PLANS.—Dental plans established under subsection (a) may provide for the following dental care:

(1) Diagnostic, oral examination, and preventive services and palliative emergency care.

(2) Basic restorative services of amalgam and composite restorations, stainless steel crowns for primary teeth, and dental appliance repairs.

(3) Orthodontic services, crowns, gold fillings, bridges, complete or partial dentures, and such other services as the Secretary of Defense considers to be appropriate.

(d) PREMIUMS.—

(1) PREMIUM SHARING PLANS.—(A) The dental insurance plan established under subsection (a)(1) and the dental benefits plans established under subsection (a)(3) are premium sharing plans.

(B) Members enrolled in a premium sharing plan for themselves or for their dependents shall be required to pay a share of the premium charged for the benefits provided under the plan. The member's share of the premium charge may not exceed \$20 per month for the enrollment.

(C) Effective as of January 1 of each year, the amount of the premium required under subparagraph (A) shall be increased by the percent equal to the lesser of—

(i) the percent by which the rates of basic pay of members of the uniformed services are increased on such date; or

(ii) the sum of one-half percent and the percent computed under section 5303(a) of title 5 for the increase in rates of basic pay for statutory pay systems for pay periods beginning on or after such date.

(D) The Secretary of Defense may reduce the monthly premium required to be paid under paragraph (1) in the case of enlisted members in pay grade E-1, E-2, E-3, or E-4 if the Secretary determines that such a reduction is appropriate to assist such members to participate in a dental plan referred to in subparagraph (A).

(2) FULL PREMIUM PLANS.—(A) The dental insurance plan established under subsection (a)(2) and the dental benefits plan established under subsection (a)(4) are full premium plans.

(B) Members enrolled in a full premium plan for themselves or for their dependents shall be required to pay the entire premium charged for the benefits provided under the plan.

(3) PAYMENT PROCEDURES.—A member's share of the premium for a plan established under subsection (a) may be paid by deductions from the basic pay of the member and from compensation paid under section 206 of title 37, as the case may be. The regulations prescribed under subsection (b) shall specify the procedures for payment of the premiums by enrollees who do not receive such pay.

(e) COPAYMENTS UNDER PREMIUM SHARING PLANS.—A member or dependent who receives dental care under a premium sharing plan referred to in subsection (d)(1) shall—

(1) in the case of care described in subsection (c)(1), pay no charge for the care;

(2) in the case of care described in subsection (c)(2), pay 20 percent of the charges for the care; and

(3) in the case of care described in subsection (c)(3), pay a percentage of the charges for the care that is determined appropriate by the Secretary of Defense, after consultation with the other administering Secretaries.

(f) TRANSFER OF MEMBERS.—If a member whose dependents are enrolled in the plan established under subsection (a)(3) is transferred to a duty station where dental care is provided to the member's eligible dependents under a program other than that plan, the member may discontinue participation under the plan. If the member is later transferred to a duty station where dental care is not provided to such member's eligible dependents except under the plan established under subsection (a)(3), the member may re-enroll the dependents in that plan.

(g) CARE OUTSIDE THE UNITED STATES.—The Secretary of Defense may exercise the authority provided under subsection (a) to establish dental insurance plans and dental benefits plans for dental benefits provided outside the United States for the eligible members and dependents of members of the uniformed services. In the case of such an overseas dental plan, the Secretary may waive or reduce any copayments required by subsection (e) to the extent the Secretary determines appropriate for the effective and efficient operation of the plan.

(h) WAIVER OF REQUIREMENTS FOR SURVIVING DEPENDENTS.—The Secretary of Defense may waive (in whole or in part) any requirements of a dental plan established under this section as the Secretary determines necessary for the effective administration of the plan for a dependent who is an eligible dependent described in subsection (k)(2).

(i) AUTHORITY SUBJECT TO APPROPRIATIONS.—The authority of the Secretary of Defense to enter into a contract under this section for any fiscal year is subject to the availability of appropriations for that purpose.

(j) LIMITATION ON REDUCTION OF BENEFITS.—The Secretary of Defense may not reduce benefits provided under a plan established under this section until—

(1) the Secretary provides notice of the Secretary's intent to reduce such benefits to the Committees on Armed Services of the Senate and the House of Representatives; and

(2) one year has elapsed following the date of such notice.

(k) ELIGIBLE DEPENDENT DEFINED.—In this section, the term "eligible dependent"—

(1) means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title; and

(2) includes any such dependent of a member who dies while on active duty for a period of more than 30 days or a member of the Ready Reserve if, on the date of the death of the member, the dependent is enrolled in a dental benefits plan established under subsection (a) or is not enrolled in such a plan by reason of a discontinuance of a former enrollment under subsection (f), except that the term does not include the dependent after the end of the three-year period beginning on the date of the member's death.

(Added P.L. 99-145, § 651(a), Nov. 8, 1985, 99 Stat. 655; amended P.L. 99-661, § 707 (a), (b), Nov. 14, 1986, 100 Stat. 3905; P.L. 102-90, § 701, Dec. 5, 1991, 105 Stat. 1399; P.L. 102-484, § 701(a)-(e), Oct. 23, 1992, 106 Stat. 2430; P.L. 103-337, § 702(b), 703(a), 707(b), Oct. 5, 1994, 108 Stat. 2797, 2798, 2800; P.L. 105-85, § 732, Nov. 18, 1997, 111 Stat. 1812; P.L. 105-261,

§ 701(a), (b), Oct. 17, 1998, 112 Stat. 2056; amended in its entirety P.L. 106–65, § 711(a), Oct. 5, 1999, 113 Stat. 685; P.L. 106–398, § 1[§ 704(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–174; P.L. 107–314, § 703, Dec. 2, 2002, 116 Stat. 2584.)

§ 1076b. TRICARE program: coverage for members of the Ready Reserve

(a) **ELIGIBILITY.**—Each member of the Selected Reserve of the Ready Reserve and each member of the Individual Ready Reserve described in section 10144(b) of this title is eligible, subject to subsection (h), to enroll in TRICARE and receive benefits under such enrollment for any period that the member—

(1) is an eligible unemployment compensation recipient; or

(2) is not eligible for health care benefits under an employer-sponsored health benefits plan.

(b) **TYPES OF COVERAGE.**—(1) A member eligible under subsection (a) may enroll for either of the following types of coverage:

(A) Self alone coverage.

(B) Self and family coverage.

(2) An enrollment by a member for self and family covers the member and the dependents of the member who are described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(c) **OPEN ENROLLMENT PERIODS.**—The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period, a member eligible under subsection (a) may enroll in the TRICARE program or change or terminate an enrollment in the TRICARE program.

(d) **SCOPE OF CARE.**—(1) A member and the dependents of a member enrolled in the TRICARE program under this section shall be entitled to the same benefits under this chapter as a member of the uniformed services on active duty or a dependent of such a member, respectively.

(2) Section 1074(c) of this title shall apply with respect to a member enrolled in the TRICARE program under this section.

(e) **PREMIUMS.**—(1) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this section. The Secretary shall prescribe for each of the TRICARE program options a premium for self alone coverage and a premium for self and family coverage.

(2) The monthly amount of the premium in effect for a month for a type of coverage under this section shall be the amount equal to 28 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

(3) The premiums payable by a member under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members not entitled to such basic pay or compensation.

(4) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subparagraph (B) of such section for such fiscal year.

(f) OTHER CHARGES.—A person who receives health care pursuant to an enrollment in a TRICARE program option under this section, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as apply under this chapter for health care provided under the same TRICARE program option to dependents described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(g) TERMINATION OF ENROLLMENT.—(1) A member enrolled in the TRICARE program under this section may terminate the enrollment only during an open enrollment period provided under subsection (c), except as provided in subsection (h).

(2) An enrollment of a member for self alone or for self and family under this section shall terminate on the first day of the first month beginning after the date on which the member ceases to be eligible under subsection (a).

(3) The enrollment of a member under this section may be terminated on the basis of failure to pay the premium charged the member under this section.

(h) RELATIONSHIP TO TRANSITION TRICARE COVERAGE UPON SEPARATION FROM ACTIVE DUTY.—(1) A member may not enroll in the TRICARE program under this section while entitled to transitional health care under subsection (a) of section 1145 of this title or while authorized to receive health care under subsection (c) of such section.

(2) A member who enrolls in the TRICARE program under this section within 90 days after the date of the termination of the member's entitlement or eligibility to receive health care under subsection (a) or (c) of section 1145 of this title may terminate the enrollment at any time within one year after the date of the enrollment.

(i) CERTIFICATION OF NONCOVERAGE BY OTHER HEALTH BENEFITS PLAN.—The Secretary of Defense may require a member to submit any certification that the Secretary considers appropriate to substantiate the member's assertion that the member is not covered for health care benefits under any other health benefits plan.

(j) ELIGIBLE UNEMPLOYMENT COMPENSATION RECIPIENT DEFINED.—In this section, the term “eligible unemployment compensation recipient” means, with respect to any month, any individual who is determined eligible for any day of such month for unemployment compensation under State law (as defined in section 205(9) of the Federal-State Extended Unemployment Compensation Act of 1970), including Federal unemployment compensation laws administered through the State.

(k) REGULATIONS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

(l) TERMINATION OF AUTHORITY.—An enrollment in TRICARE under this section may not continue after December 31, 2004.

(Added P.L. 108–106, § 1115(a), Nov. 6, 2003, 117 Stat. 1216; revised in its entirety P.L. 108–136, § 702, Nov. 24, 2003, 117 Stat. 1525.)

§ 1076c. Dental insurance plan: certain retirees and their surviving spouses and other dependents

(a) **REQUIREMENT FOR PLAN.**—The Secretary of Defense, in consultation with the other administering Secretaries, shall establish a dental insurance plan for retirees of the uniformed services, certain unremarried surviving spouses, and dependents in accordance with this section.

(b) **PERSONS ELIGIBLE FOR PLAN.**—The following persons are eligible to enroll in the dental insurance plan established under subsection (a):

(1) Members of the uniformed services who are entitled to retired pay.

(2) Members of the Retired Reserve who would be entitled to retired pay under chapter 1223 of this title but for being under 60 years of age.

(3) Eligible dependents of a member described in paragraph (1) or (2) who are covered by the enrollment of the member in the plan.

(4) Eligible dependents of a member described in paragraph (1) or (2) who is not enrolled in the plan and who—

(A) is enrolled under section 1705 of title 38 to receive dental care from the Secretary of Veterans Affairs;

(B) is enrolled in a dental plan that—

(i) is available to the member as a result of employment by the member that is separate from the military service of the member; and

(ii) is not available to dependents of the member as a result of such separate employment by the member; or

(C) is prevented by a medical or dental condition from being able to obtain benefits under the plan.

(5) The unremarried surviving spouse and eligible child dependents of a deceased member—

(A) who died while in a status described in paragraph (1) or (2);

(B) who is described in section 1448(d)(1) of this title; or

(C) who died while on active duty for a period of more than 30 days and whose eligible dependents are not eligible, or no longer eligible, for dental benefits under section 1076a of this title.

(c) **PREMIUMS.**—(1) A member enrolled in the dental insurance plan established under subsection (a) shall pay the premiums charged for the insurance coverage.

(2) The Secretary of Defense shall establish procedures for the collection of the premiums charged for coverage by the dental insurance plan. To the maximum extent practicable, the premiums payable by a member entitled to retired pay shall be deducted and withheld from the retired pay of the member (if pay is available to the member).

(d) **BENEFITS AVAILABLE UNDER THE PLAN.**—The dental insurance plan established under subsection (a) shall provide benefits for dental care and treatment which may be comparable to the benefits authorized under section 1076a of this title for plans estab-

lished under that section and shall include diagnostic services, preventative services, endodontics and other basic restorative services, surgical services, and emergency services.

(e) COVERAGE.—(1) The Secretary shall prescribe a minimum required period for enrollment by a member or surviving spouse in the dental insurance plan established under subsection (a).

(2) The dental insurance plan shall provide for voluntary enrollment of participants and shall authorize a member or eligible unremarried surviving spouse to enroll for self only or for self and eligible dependents.

(f) REQUIRED TERMINATIONS OF ENROLLMENT.—The Secretary shall terminate the enrollment of any enrollee, and any eligible dependents of the enrollee covered by the enrollment, in the dental insurance plan established under subsection (a) upon the occurrence of the following:

(1) In the case of an enrollment under subsection (b)(1), termination of the member's entitlement to retired pay.

(2) In the case of an enrollment under subsection (b)(2), termination of the member's status as a member of the Retired Reserve.

(3) In the case of an enrollment under subsection (b)(5), remarriage of the surviving spouse.

(g) CONTINUATION OF DEPENDENTS' ENROLLMENT UPON DEATH OF ENROLLEE.—Coverage of a dependent in the dental insurance plan established under subsection (a) under an enrollment of a member or a surviving spouse who dies during the period of enrollment shall continue until the end of that period and may be renewed by (or for) the dependent, so long as the premium paid is sufficient to cover continuation of the dependent's enrollment. The Secretary may terminate coverage of the dependent when the premiums paid are no longer sufficient to cover continuation of the enrollment. The Secretary shall prescribe in regulations under subsection (h) the parties responsible for paying the remaining premiums due on the enrollment and the manner for collection of the premiums.

(h) REGULATIONS.—The dental insurance plan established under subsection (a) shall be administered under regulations prescribed by the Secretary of Defense, in consultation with the other administering Secretaries.

(i) VOLUNTARY DISENROLLMENT.—(1) With respect to enrollment in the dental insurance plan established under subsection (a), the Secretary of Defense—

(A) shall allow for a period of up to 30 days at the beginning of the prescribed minimum enrollment period during which an enrollee may disenroll; and

(B) shall provide for limited circumstances under which disenrollment shall be permitted during the prescribed enrollment period, without jeopardizing the fiscal integrity of the dental program.

(2) The circumstances described in paragraph (1)(B) shall include—

(A) a case in which a retired member, surviving spouse, or dependent of a retired member who is also a Federal employee is assigned to a location outside the jurisdiction of the dental

insurance plan established under subsection (a) that prevents utilization of dental benefits under the plan;

(B) a case in which a retired member, surviving spouse, or dependent of a retired member is prevented by a serious medical condition from being able to obtain benefits under the plan;

(C) a case in which severe financial hardship would result; and

(D) any other circumstances which the Secretary considers appropriate.

(3) The Secretary shall establish procedures for timely decisions on requests for disenrollment under this section and for appeal to the TRICARE Management Activity of adverse decisions.

(j) DEFINITIONS.—In this section:

(1) The term “eligible dependent” means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(2) The term “eligible child dependent” means a dependent described in subparagraph (D) or (I) of section 1072(2) of this title.

(3) The term “retired pay” includes retainer pay.

(Added P.L. 104–201, § 703(a)(1), Sept. 23, 1996, 110 Stat. 2588; amended P.L. 105–85, § 701, 733(b), 734, Nov. 18, 1997, 111 Stat. 1807, 1812, 1813; P.L. 105–261, § 702, Oct. 17, 1998, 112 Stat. 2056; P.L. 106–65, § 704, Oct. 5, 1999, 113 Stat. 683; P.L. 106–398, § 1[§ 726, 1087(a)(6)], Oct. 30, 2000, 114 Stat. 1654, 1654A–187, 1654A–290.)

§ 1077. Medical care for dependents: authorized care in facilities of uniformed services

(a) Only the following types of health care may be provided under section 1076 of this title:

(1) Hospitalization.

(2) Outpatient care.

(3) Drugs.

(4) Treatment of medical and surgical conditions.

(5) Treatment of nervous, mental, and chronic conditions.

(6) Treatment of contagious diseases.

(7) Physical examinations, including eye examinations, and immunizations.

(8) Maternity and infant care, including well-baby care that includes one screening of an infant for the level of lead in the blood of the infant.

(9) Diagnostic tests and services, including laboratory and X-ray examinations.

(10) Dental care.

(11) Ambulance service and home calls when medically necessary.

(12) Durable equipment, which may be provided on a loan basis.

(13) Primary and preventive health care services for women (as defined in section 1074d(b) of this title).

(14) Preventive health care screening for colon or prostate cancer, at the intervals and using the screening methods prescribed under section 1074d(a)(2) of this title.

(15) Prosthetic devices, as determined by the Secretary of Defense to be necessary because of significant conditions resulting from trauma, congenital anomalies, or disease.

(16) A hearing aid, but only for a dependent of a member of the uniformed services on active duty and only if the dependent has a profound hearing loss, as determined under standards prescribed in regulations by the Secretary of Defense in consultation with the administering Secretaries.

(17) Any rehabilitative therapy to improve, restore, or maintain function, or to minimize or prevent deterioration of function, of a patient when prescribed by a physician.

(b) The following types of health care may not be provided under section 1076 of this title:

(1) Domiciliary or custodial care.

(2) Orthopedic footwear and spectacles, except that, outside of the United States and at stations inside the United States where adequate civilian facilities are unavailable, such items may be sold to dependents at cost to the United States.

(3) The elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.

(c) A dependent participating under a dental plan established under section 1076a of this title may not be provided dental care under section 1076(a) of this title except for emergency dental care, dental care provided outside the United States, and dental care that is not covered by such plan.

(d)(1) Notwithstanding subsection (b)(1), hospice care may be provided under section 1076 of this title in facilities of the uniformed services to a terminally ill patient who chooses (pursuant to regulations prescribed by the Secretary of Defense in consultation with the other administering Secretaries) to receive hospice care rather than continuing hospitalization or other health care services for treatment of the patient's terminal illness.

(2) In this section, the term "hospice care" means the items and services described in section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)).

(e)(1) Authority to provide a prosthetic device under subsection (a)(15) includes authority to provide the following:

(A) Any accessory or item of supply that is used in conjunction with the device for the purpose of achieving therapeutic benefit and proper functioning.

(B) Services necessary to train the recipient of the device in the use of the device.

(C) Repair of the device for normal wear and tear or damage.

(D) Replacement of the device if the device is lost or irreparably damaged or the cost of repair would exceed 60 percent of the cost of replacement.

(2) An augmentative communication device may be provided as a voice prosthesis under subsection (a)(15).

(3) A prosthetic device customized for a patient may be provided under this section only by a prosthetic practitioner who is qualified to customize the device, as determined under regulations prescribed by the Secretary of Defense in consultation with the administering Secretaries.

(f)(1) Items that may be provided to a patient under subsection (a)(12) include the following:

(A) Any durable medical equipment that can improve, restore, or maintain the function of a malformed, diseased, or in-

jured body part, or can otherwise minimize or prevent the deterioration of the patient's function or condition.

(B) Any durable medical equipment that can maximize the patient's function consistent with the patient's physiological or medical needs.

(C) Wheelchairs.

(D) Iron lungs.

(E) Hospital beds.

(2) In addition to the authority to provide durable medical equipment under subsection (a)(12), any customization of equipment owned by the patient that is durable medical equipment authorized to be provided to the patient under this section or section 1079(a)(5) of this title, and any accessory or item of supply for any such equipment, may be provided to the patient if the customization, accessory, or item of supply is essential for—

(A) achieving therapeutic benefit for the patient;

(B) making the equipment serviceable; or

(C) otherwise assuring the proper functioning of the equipment.

(Added P.L. 85-861, § 1(25)(B), Sept. 2, 1958, 72 Stat. 1447; amended P.L. 89-614, § 2(4), Sept. 30, 1966, 80 Stat. 863; P.L. 98-525, § 633(a), §§ 1401(e)(3), 1405(22), Oct. 19, 1984, 98 Stat. 2544, 2617, 2623; P.L. 99-145, § 702(a), § 703, Nov. 8, 1985, 99 Stat. 655; P.L. 102-190, §§ 702(a), 703, Dec. 5, 1991, 105 Stat. 1400, 1401; P.L. 103-160, § 701(b), Nov. 30, 1993, 107 Stat. 1686; P.L. 103-337, §§ 703(b), 705, Oct. 5, 1994, 108 Stat. 2798, 2799; P.L. 104-201, § 701(b)(1), Sept. 23, 1996, 110 Stat. 2587; P.L. 105-85, § 702(b), Nov. 18, 1997, 111 Stat. 1807; P.L. 107-107, §§ 702, 703(a), 704, Dec. 28, 2001, 115 Stat. 1161, 1162.)

§ 1078. Medical and dental care for dependents: charges

(a) The Secretary of Defense, after consulting the other administering Secretaries, shall prescribe fair charges for inpatient medical and dental care given to dependents under section 1076 of this title. The charge or charges prescribed shall be applied equally to all classes of dependents.

(b) As a restraint on excessive demands for medical and dental care under section 1076 of this title, uniform minimal charges may be imposed for outpatient care. Charges may not be more than such amounts, if any, as the Secretary of Defense may prescribe after consulting the other administering Secretaries, and after a finding that such charges are necessary.

(c) Amounts received for subsistence and medical and dental care given under section 1076 of this title shall be deposited to the credit of the appropriation supporting the maintenance and operation of the facility furnishing the care.

(Added P.L. 85-861, § 1(25)(B), Sept. 2, 1958, 72 Stat. 1448; amended P.L. 89-614, § 2(5), Sept. 30, 1966, 80 Stat. 863; P.L. 96-513, § 511(36), Dec. 12, 1980, 94 Stat. 2923; P.L. 98-557, § 19(6), Oct. 30, 1984, 98 Stat. 2869; P.L. 102-325, § 414, July 23, 1992, 106 Stat. 513.)

§ 1078a. Continued health benefits coverage

(a) PROVISION OF CONTINUED HEALTH COVERAGE.—The Secretary of Defense shall implement and carry out a program of continued health benefits coverage in accordance with this section to provide persons described in subsection (b) with temporary health benefits comparable to the health benefits provided for former civilian employees of the Federal Government and other persons under section 8905a of title 5.

(b) ELIGIBLE PERSONS.—The persons referred to in subsection (a) are the following:

(1) A member of the uniformed services who—

(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

(2) A person who—

(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the uniformed services under section 1072(2)(D) of this title or ceases to meet the requirements for being considered an unmarried dependent under section 1072(2)(I) of this title;

(B) on the day before ceasing to meet those requirements, was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

(C) would not otherwise be eligible for any benefits under this chapter.

(3) A person who—

(A) is an unremarried former spouse of a member or former member of the uniformed services; and

(B) on the day before the date of the final decree of divorce, dissolution, or annulment was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

(C) is not a dependent of the member or former member under subparagraph (F) or (G) of section 1072(2) of this title or ends a one-year period of dependency under subparagraph (H) of such section.

(c) NOTIFICATION OF ELIGIBILITY.—(1) The Secretary of Defense shall prescribe regulations to provide for persons described in subsection (b) to be notified of eligibility to receive health benefits under this section.

(2) In the case of a member who becomes (or will become) eligible for continued coverage under subsection (b)(1), the regulations shall provide for the Secretary concerned to notify the member of the member's rights under this section as part of preseparation counseling conducted under section 1142 of this title or any other provision of other law.

(3) In the case of a dependent of a member or former member who becomes eligible for continued coverage under subsection (b)(2), the regulations shall provide that—

(A) the member or former member may submit to the Secretary concerned a written notice of the dependent's change in status (including the dependent's name, address, and such

other information as the Secretary of Defense may require); and

(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the dependent of the dependent's rights under this section.

(4) In the case of a former spouse of a member or former member who becomes eligible for continued coverage under subsection (b)(3), the regulations shall provide appropriate notification provisions and a 60-day election period under subsection (d)(3).

(d) ELECTION OF COVERAGE.—In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Secretary of Defense may prescribe) shall be made as follows:

(1) In the case of a member described in subsection (b)(1), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(A) the date of the discharge or release of the member from active duty or full-time National Guard duty;

(B) the date on which the period of transitional health care applicable to the member under section 1145(a) of this title ends; or

(C) the date the member receives the notification required pursuant to subsection (c).

(2)(A) In the case of a dependent of a member or former member who becomes eligible for continued coverage under subsection (b)(2), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(i) the date on which the dependent first ceases to meet the requirements for being considered a dependent under subparagraph (D) or (I) of section 1072(2) of this title; or

(ii) the date the dependent receives the notification pursuant to subsection (c).

(B) Notwithstanding subparagraph (A), if the Secretary concerned determines that the dependent's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the dependent in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A)(i).

(3) In the case of a former spouse of a member or a former member who becomes eligible for continued coverage under subsection (b)(3), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

(A) the date as of which the former spouse first ceases to meet the requirements for being considered a dependent under section 1072(2) of this title; or

(B) such other date as the Secretary of Defense may prescribe.

(e) COVERAGE OF DEPENDENTS.—A person eligible under subsection (b)(1) to elect to receive coverage may elect coverage either as an individual or, if appropriate, for self and dependents. A per-

son eligible under subsection (b)(2) or subsection (b)(3) may elect only individual coverage.

(f) CHARGES.—(1) Under arrangements satisfactory to the Secretary of Defense, a person receiving continued coverage under this section shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the employee and agency contributions which would be required in the case of a similarly situated employee enrolled in a comparable health benefits plan under section 8905a(d)(1)(A)(i) of title 5; and

(B) an amount, not to exceed 10 percent of the amount determined under subparagraph (A), determined under regulations prescribed by the Secretary of Defense to be necessary for administrative expenses; and

(2) If a person elects to continue coverage under this section before the end of the applicable period under subsection (d), but after the person's coverage under this chapter (and any transitional extension of coverage under section 1145(a) of this title) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

(g) PERIOD OF CONTINUED COVERAGE.—(1) Continued coverage under this section may not extend beyond—

(A) in the case of a member described in subsection (b)(1), the date which is 18 months after the date the member ceases to be entitled to care under section 1074(a) of this title and any transitional care under section 1145 of this title, as the case may be;

(B) in the case of a person described in subsection (b)(2), the date which is 36 months after the date on which the person first ceases to meet the requirements for being considered a dependent under subparagraph (D) or (I) of section 1072(2) of this title; and

(C) in the case of a person described in subsection (b)(3), except as provided in paragraph (4), the date which is 36 months after the later of—

(i) the date on which the final decree of divorce, dissolution, or annulment occurs; and

(ii) if applicable, the date the one-year extension of dependency under section 1072(2)(H) of this title expires.

(2) Notwithstanding paragraph (1)(B), if a dependent of a member becomes eligible for continued coverage under subsection (b)(2) during a period of continued coverage of the member for self and dependents under this section, extended coverage of the dependent under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.

(3) Notwithstanding paragraph (1)(C), if a person becomes eligible for continued coverage under subsection (b)(3) as the former spouse of a member during a period of continued coverage of the member for self and dependents under this section, extended coverage of the former spouse under this section may not extend be-

yond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.

(4)(A) Notwithstanding paragraph (1), in the case of a former spouse described in subparagraph (B), continued coverage under this section shall continue for such period as the former spouse may request.

(B) A former spouse referred to in subparagraph (A) is a former spouse of a member or former member (other than a former spouse whose marriage was dissolved after the separation of the member from the service unless such separation was by retirement)—

(i) who has not remarried before age 55 after the marriage to the employee, former employee, or annuitant was dissolved;

(ii) who was enrolled in an approved health benefits plan under this chapter as a family member at any time during the 18-month period before the date of the divorce, dissolution, or annulment; and

(iii)(I) who is receiving any portion of the retired or retainer pay of the member or former member or an annuity based on the retired or retainer pay of the member; or

(II) for whom a court order (as defined in section 1408(a)(2) of this title) has been issued for payment of any portion of the retired or retainer pay or for whom a court order (as defined in section 1447(13) of this title) or a written agreement (whether voluntary or pursuant to a court order) provides for an election by the member or former member to provide an annuity to the former spouse.

(Added P.L. 102-484, § 4408(a)(1), Oct. 23, 1992, 106 Stat. 2708; amended P.L. 103-35, § 201(g)(1), May 31, 1993, 107 Stat. 99; P.L. 103-337, § 702(c), Oct. 5, 1994, 108 Stat. 2798; P.L. 104-201, § 1074(a)(4), Sept. 23, 1996, 110 Stat. 2658; P.L. 105-85, § 1073(a)(17), Nov. 18, 1997, 111 Stat. 1901; P.L. 108-136, § 713(a), Nov. 24, 2003, 117 Stat. 1530.)

§ 1079. Contracts for medical care for spouses and children: plans

(a) To assure that medical care is available for dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title, of members of the uniformed services who are on active duty for a period of more than 30 days, the Secretary of Defense, after consulting with the other administering Secretaries, shall contract, under the authority of this section, for medical care for those persons under such insurance, medical service, or health plans as he considers appropriate. The types of health care authorized under this section shall be the same as those provided under section 1076 of this title, except as follows:

(1) With respect to dental care, only that care required as a necessary adjunct to medical or surgical treatment may be provided.

(2) Consistent with such regulations as the Secretary of Defense may prescribe regarding the content of health promotion and disease prevention visits, the schedule of pap smears and mammograms, the schedule and method of colon and prostate cancer screenings, and the types and schedule of immunizations—

(A) for dependents under six years of age, both health promotion and disease prevention visits and immunizations may be provided; and

(B) for dependents six years of age or older, health promotion and disease prevention visits may be provided in connection with immunizations or with diagnostic or preventive pap smears and mammograms or colon and prostate cancer screenings.

(3) Not more than one eye examination may be provided to a patient in any calendar year.

(4) Under joint regulations to be prescribed by the administering Secretaires, the services of Christian Science practitioners and nurses and services obtained in Christian Science sanatoriums may be provided.

(5) Durable equipment provided under this section may be provided on a rental basis.

(6) Inpatient mental health services may not (except as provided in subsection (i)) be provided to a patient in excess of—

(A) 30 days in any year, in the case of a patient 19 years of age or older;

(B) 45 days in any year, in the case of a patient under 19 years of age; or

(C) 150 days in any year, in the case of inpatient mental health services provided as residential treatment care.

(7) Services in connection with nonemergency inpatient hospital care may not be provided if such services are available at a facility of the uniformed services located within a 40-mile radius of the residence of the patient, except that those services may be provided in any case in which another insurance plan or program provides primary coverage for those services.

(8) Services of pastoral counselors, family and child counselors, or marital counselors (other than certified marriage and family therapists) may not be provided unless the patient has been referred to the counselor by a medical doctor for treatment of a specific problem with the results of that treatment to be communicated back to the medical doctor who made the referral and services of certified marriage and family therapists may be provided consistent with such rules as may be prescribed by the Secretary of Defense, including credentialing criteria and a requirement that the therapists accept payment under this section as full payment for all services provided.

(9) Special education may not be provided, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis.

(10) Therapy or counseling for sexual dysfunctions or sexual inadequacies may not be provided.

(11) Treatment of obesity may not be provided if obesity is the sole or major condition treated.

(12) Surgery which improves physical appearance but is not expected to significantly restore functions (including mammary augmentation, face lifts, and sex gender changes) may not be provided, except that—

(A) breast reconstructive surgery following a mastectomy may be provided;

(B) reconstructive surgery to correct serious deformities caused by congenital anomalies or accidental injuries may be provided; and

(C) neoplastic surgery may be provided.

(13) Any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, certified marriage and family therapist, optometrist, podiatrist, certified nurse-midwife, certified nurse practitioner, or certified clinical social worker, as appropriate, may not be provided, except as authorized in paragraph (4). Pursuant to an agreement with the Secretary of Health and Human Services and under such regulations as the Secretary of Defense may prescribe, the Secretary of Defense may waive the operation of this paragraph in connection with clinical trials sponsored or approved by the National Institutes of Health if the Secretary of Defense determines that such a waiver will promote access by covered beneficiaries to promising new treatments and contribute to the development of such treatments.

(14) The prohibition contained in section 1077(b)(3) of this title shall not apply in the case of a member or former member of the uniformed services.

(15) Electronic cardio-respiratory home monitoring equipment (apnea monitors) for home use may be provided if a physician prescribes and supervises the use of the monitor for an infant—

(A) who has had an apparent life-threatening event,

(B) who is a subsequent sibling of a victim of sudden infant death syndrome,

(C) whose birth weight was 1,500 grams or less, or

(D) who is a pre-term infant with pathologic apnea,

in which case the coverage may include the cost of the equipment, hard copy analysis of physiological alarms, professional visits, diagnostic testing, family training on how to respond to apparent life threatening events, and assistance necessary for proper use of the equipment.

(16) Hospice care may be provided only in the manner and under the conditions provided in section 1861(dd) of the Social Security Act (42 U.S.C. 1395x(dd)).

(b) Plans covered by subsection (a) shall include provisions for payment by the patient of the following amounts:

(1) \$25 for each admission to a hospital, or the amount the patient would have been charged under section 1078(a) of this title had the care being paid for been obtained in a hospital of the uniformed services, whichever amount is the greater. The Secretary of Defense may exempt a patient from paying such amount if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.

(2) Except as provided in clause (3), the first \$150 each fiscal year of the charges for all types of care authorized by subsection (a) and received while in an outpatient status and 20 percent of all subsequent charges for such care during a fiscal year. Notwithstanding the preceding sentence, in the case of a

dependent of an enlisted member in a pay grade below E-5, the initial deductible each fiscal year under this paragraph shall be limited to \$50.

(3) A family group of two or more persons covered by this section shall not be required to pay collectively more than the first \$300 (or in the case of the family group of an enlisted member in a pay grade below E-5, the first \$100) each fiscal year of the charges for all types of care authorized by subsection (a) and received while in an outpatient status and 20 percent of the additional charges for such care during a fiscal year.

(4) \$25 for surgical care that is authorized by subsection (a) and received while in an outpatient status and that has been designated (under joint regulations to be prescribed by the administering Secretaries) as care to be treated as inpatient care for purposes of this subsection. Any care for which payment is made under this clause shall not be considered to be care received while in an outpatient status for purposes of clauses (2) and (3).

(5) An individual or family group of two or more persons covered by this section may not be required by reason of this subsection to pay a total of more than \$1,000 for health care received during any fiscal year under a plan under subsection (a).

(c) The methods for making payment under subsection (b) shall be prescribed under joint regulations issued by the administering Secretaries.

(d)(1) The Secretary of Defense shall establish a program to provide extended benefits for eligible dependents, which may include the provision of comprehensive health care services, including case management services, to assist in the reduction of the disabling effects of a qualifying condition of an eligible dependent. Registration shall be required to receive the extended benefits.

(2) The Secretary of Defense, after consultation with the other administering Secretaries, shall promulgate regulations to carry out this subsection.

(3) In this subsection:

(A) The term "eligible dependent" means a dependent of a member of the uniformed services on active duty for a period of more than 30 days, as described in subparagraph (A), (D), or (I) of section 1072(2) of this title, who has a qualifying condition.

(B) The term "qualifying condition" means the condition of a dependent who is moderately or severely mentally retarded, has a serious physical disability, or has an extraordinary physical or psychological condition.

(e) Extended benefits for eligible dependents under subsection (d) may include comprehensive health care services (including services necessary to maintain, or minimize or prevent deterioration of, function of the patient) and case management services with respect to the qualifying condition of such a dependent, and include, to the extent such benefits are not provided under provisions of this chapter other than under this section, the following:

(1) Diagnosis.

(2) Inpatient, outpatient, and comprehensive home health care supplies and services which may include cost effective and medically appropriate services other than part-time or intermittent services (within the meaning of such terms as used in the second sentence of section 1861(m) of the Social Security Act).

(3) Training, rehabilitation, special education, and assistive technology devices.

(4) Institutional care in private nonprofit, public, and State institutions and facilities and, if appropriate, transportation to and from such institutions and facilities.

(5) Custodial care, notwithstanding the prohibition in section 1077(b)(1) of this title.

(6) Respite care for the primary caregiver of the eligible dependent.

(7) Such other services and supplies as determined appropriate by the Secretary, notwithstanding the limitations in subsection (a)(13).

(f)(1) Members shall be required to share in the cost of any benefits provided to their dependents under subsection (d) as follows:

(A) Members in the lowest enlisted pay grade shall be required to pay the first \$25 incurred each month, and members in the highest commissioned pay grade shall be required to pay the first \$250 incurred each month. The amounts to be paid by members in all other pay grades shall be determined under regulations to be prescribed by the Secretary of Defense in consultation with the administering Secretaries.

(B) A member who has more than one dependent incurring expenses in a given month under a plan covered by subsection (d) shall not be required to pay an amount greater than would be required if the member had only one such dependent.

(2) In the case of extended benefits provided under paragraph (3) or (4) of subsection (e) to a dependent of a member of the uniformed services—

(A) the Government's share of the total cost of providing such benefits in any month shall not exceed \$2,500, except for costs that a member is exempt from paying under paragraph (3); and

(B) the member shall pay (in addition to any amount payable under paragraph (1)) the amount, if any, by which the amount of such total cost for the month exceeds the Government's maximum share under subparagraph (A).

(3) A member of the uniformed services who incurs expenses under paragraph (2) for a month for more than one dependent shall not be required to pay for the month under subparagraph (B) of that paragraph an amount greater than the amount the member would otherwise be required to pay under that subparagraph for the month if the member were incurring expenses under that subparagraph for only one dependent.

(4) To qualify for extended benefits under paragraph (3) or (4) of subsection (e), a dependent of a member of the uniformed services shall be required to use public facilities to the extent such facilities are available and adequate, as determined under joint regulations of the administering Secretaries.

(5) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to carry out this subsection.

(g) When a member dies while he is eligible for receipt of hostile fire pay under section 310 of title 37 or from a disease or injury incurred while eligible for such pay, his dependents who are receiving benefits under a plan covered by subsection (d) shall continue to be eligible for such benefits until they pass their twenty-first birthday. In addition, when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for such benefits during the three-year period beginning on the date of the death of the member.

(h)(1) Except as provided in paragraphs (2) and (3), payment for a charge for services by an individual health care professional (or other noninstitutional health care provider) for which a claim is submitted under a plan contracted for under subsection (a) shall be equal to an amount determined to be appropriate, to the extent practicable, in accordance with the same reimbursement rules as apply to payments for similar services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). The Secretary of Defense shall determine the appropriate payment amount under this paragraph in consultation with the other administering Secretaries.

(2) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to provide for such exceptions to the payment limitations under paragraph (1) as the Secretary determines to be necessary to assure that covered beneficiaries retain adequate access to health care services. Such exceptions may include the payment of amounts higher than the amount allowed under paragraph (1) when enrollees in managed care programs obtain covered services from nonparticipating providers. To provide a suitable transition from the payment methodologies in effect before February 10, 1996, to the methodology required by paragraph (1), the amount allowable for any service may not be reduced by more than 15 percent below the amount allowed for the same service during the immediately preceding 12-month period (or other period as established by the Secretary of Defense).

(3) In addition to the authority provided under paragraph (2), the Secretary of Defense may authorize the commander of a facility of the uniformed services, the lead agent (if other than the commander), and the health care contractor to modify the payment limitations under paragraph (1) for certain health care providers when necessary to ensure both the availability of certain services for covered beneficiaries and lower costs than would otherwise be incurred to provide the services. With the consent of the health care provider, the Secretary is also authorized to reduce the authorized payment for certain health care services below the amount otherwise required by the payment limitations under paragraph (1).

(4)(A) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations to establish limitations (similar to the limitations established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)) on beneficiary liability for charges of an individual health care professional (or other noninstitutional health care provider).

(B) The regulations shall include a restriction that prohibits an individual health care professional (or other noninstitutional health care provider) from billing a beneficiary for services for more than the amount that is equal to—

(i) the excess of the limiting charge (as defined in section 1848(g)(2) of the Social Security Act (42 U.S.C. 1395w-4(g)(2))) that would be applicable if the services had been provided by the professional (or other provider) as an individual health care professional (or other noninstitutional health care provider) on a nonassignment-related basis under part B of title XVIII of such Act over the amount that is payable by the United States for those services under this subsection, plus

(ii) any unpaid amounts of deductibles or copayments that are payable directly to the professional (or other provider) by the beneficiary.

(5) To assure access to care for all covered beneficiaries, the Secretary of Defense, in consultation with the other administering Secretaries, shall designate specific rates for reimbursement for services in certain localities if the Secretary determines that without payment of such rates access to health care services would be severely impaired. Such a determination shall be based on consideration of the number of providers in a locality who provide the services, the number of such providers who are CHAMPUS participating providers, the number of covered beneficiaries under CHAMPUS in the locality, the availability of military providers in the location or a nearby location, and any other factors determined to be relevant by the Secretary.

(i)(1) The limitation in subsection (a)(6) does not apply in the case of inpatient mental health services—

(A) provided under the program for the handicapped under subsection (d);

(B) provided as partial hospital care; or

(C) provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

(2) Notwithstanding subsection (b) or section 1086(b) of this title, the Secretary of Defense (after consulting with the other administering Secretaries) may prescribe separate payment requirements (including deductibles, copayments, and catastrophic limits) for the provision of mental health services to persons covered by this section or section 1086 of this title. The payment requirements may vary for different categories of covered beneficiaries, by type of mental health service provided, and based on the location of the covered beneficiaries.

(3)(A) Except as provided in subparagraph (B), the Secretary of Defense shall require preadmission authorization before inpatient mental health services may be provided to persons covered by this section or section 1086 of this title. In the case of the provision of emergency inpatient mental health services, approval for the con-

tinuation of such services shall be required within 72 hours after admission.

(B) Preadmission authorization for inpatient mental health services is not required under subparagraph (A) in the following cases:

(i) In the case of an emergency.

(ii) In a case in which any benefits are payable for such services under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), subject to subparagraph (C).

(C) In a case of inpatient mental health services to which subparagraph (B)(ii) applies, the Secretary shall require advance authorization for a continuation of the provision of such services after benefits cease to be payable for such services under such part A.

(j)(1) A benefit may not be paid under a plan covered by this section in the case of a person enrolled in, or covered by, any other insurance, medical service, or health plan, including any plan offered by a third-party payer (as defined in section 1095(h)(1) of this title), to the extent that the benefit is also a benefit under the other plan, except in the case of a plan administered under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(2) The amount to be paid to a provider of services for services provided under a plan covered by this section shall be determined under joint regulations to be prescribed by the administering Secretaries which provide that the amount of such payments shall be determined to the extent practicable in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(3) A contract for a plan covered by this section shall include a clause that prohibits each provider of services under the plan from billing any person covered by the plan for any balance of charges for services in excess of the amount paid for those services under the joint regulations referred to in paragraph (2), except for any unpaid amounts of deductibles or copayments that are payable directly to the provider by the person.

(4) In this subsection, the term “provider of services” means a hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program (as defined in section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2))), or other institutional facility providing services for which payment may be made under a plan covered by this section.

(k) A plan covered by this section may include provision of liver transplants (including the cost of acquisition and transportation of the donated liver) in accordance with this subsection. Such a liver transplant may be provided if—

(1) the transplant is for a dependent considered appropriate for that procedure by the Secretary of Defense in consultation with the administering Secretaries and such other entities as the Secretary considers appropriate; and

(2) the transplant is to be carried out at a health-care facility that has been approved for that purpose by the Secretary of Defense after consultation with the Secretary of Health and Human Services and such other entities as the Secretary considers appropriate.

(1)(1) Contracts entered into under subsection (a) shall also provide for medical care for dependents of former members of the uniformed services who are authorized to receive medical and dental care under section 1076(e) of this title in facilities of the uniformed services.

(2) Except as provided in paragraph (3), medical care in the case of a dependent described in section 1076(e) shall be furnished under the same conditions and subject to the same limitations as medical care furnished under this section to spouses and children of members of the uniformed services described in the first sentence of subsection (a).

(3) Medical care may be furnished to a dependent pursuant to paragraph (1) only for an injury, illness, or other condition described in section 1076(e) of this title.

(m)(1) Subject to paragraph (2), the Secretary of Defense may, upon request, make payments under this section for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) to a hospital that does not impose a legal obligation on any of its patients to pay for such services.

(2) A payment under paragraph (1) may not exceed the average amount paid for comparable services in the geographic area in which the hospital is located or, if no comparable services are available in that area, in an area similar to the area in which the hospital is located.

(3) The Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this subsection to ensure that the hospital's practices of not billing patients for payment are not resulting in increased costs to the Government.

(4) The Secretary of Defense may require each hospital the Secretary approves for payment under this subsection to provide evidence that it has sources of revenue to cover unbilled costs.

(n) The Secretary of Defense may enter into contracts (or amend existing contracts) with fiscal intermediaries under which the intermediaries agree to organize and operate, directly or through subcontractors, managed health care networks for the provision of health care under this chapter. The managed health care networks shall include cost containment methods, such as utilization review and contracting for care on a discounted basis.

(o)(1) Health care services provided pursuant to this section or section 1086 of this title (or pursuant to any other contract or project under the Civilian Health and Medical Program of the Uniformed Services) may not include services determined under the CHAMPUS Peer Review Organization program to be not medically or psychologically necessary.

(2) The Secretary of Defense, after consulting with the other administering Secretaries, may adopt or adapt for use under the CHAMPUS Peer Review Organization program, as the Secretary considers appropriate, any of the quality and utilization review requirements and procedures that are used by the Peer Review Organization program under part B of title XI of the Social Security Act (42 U.S.C. 1320c et seq.).

(p)(1) Subject to such exceptions as the Secretary of Defense considers necessary, coverage for medical care under this section for the dependents described in paragraph (3), and standards with

respect to timely access to such care, shall be comparable to coverage for medical care and standards for timely access to such care under the managed care option of the TRICARE program known as TRICARE Prime.

(2) The Secretary of Defense shall enter into arrangements with contractors under the TRICARE program or with other appropriate contractors for the timely and efficient processing of claims under this subsection.

(3) This subsection applies with respect to a dependent referred to in subsection (a) who—

(A) is a dependent of a member of the uniformed services referred to in section 1074(c)(3) of this title and is residing with the member;

(B) is a dependent of a member who, after having served in a duty assignment described in section 1074(c)(3) of this title, has relocated without the dependent pursuant to orders for a permanent change of duty station from a remote location described in subparagraph (B)(ii) of such section where the member and the dependent resided together while the member served in such assignment, if the orders do not authorize dependents to accompany the member to the new duty station at the expense of the United States and the dependent continues to reside at the same remote location, or

(C) is a dependent of a reserve component member ordered to active duty for a period of more than 30 days and is residing with the member, and the residence is located more than 50 miles, or approximately one hour of driving time, from the nearest military medical treatment facility adequate to provide the needed care.

(4) The Secretary of Defense shall consult with the other administering Secretaries in the administration of this subsection.

(q) Subject to subsection (a), a physician or other health care practitioner who is eligible to receive reimbursement for services provided under medicare (as defined in section 1086(d)(3)(C) of this title) shall be considered approved to provide medical care authorized under this section and section 1086 of this title unless the administering Secretaries have information indicating medicare, TRICARE, or other Federal health care program integrity violations by the physician or other health care practitioner.

(Added P.L. 85-861, § 1(25)(B), Sept. 2, 1958, 72 Stat. 1448; amended P.L. 89-614, § 2(6), Sept. 30, 1966, 80 Stat. 863; P.L. 92-58, § 1, July 29, 1971, 85 Stat. 157; P.L. 95-485, § 806(a)(1), Oct. 20, 1978, 92 Stat. 1622; P.L. 96-342, § 810(a), (b), Sept. 8, 1980, 94 Stat. 1097; P.L. 96-513, §§ 501(13), 511(36), (38), Dec. 12, 1980, 94 Stat. 2908, 2923; P.L. 96-552, Dec. 19, 1980, 94 Stat. 3254; P.L. 97-22, § 11(a)(2), July 10, 1981, 95 Stat. 137; P.L. 97-86, § 906(a)(1), Dec. 1, 1981, 95 Stat. 1117; P.L. 98-94, § 931(a), § 1268(4), Sept. 24, 1983, 97 Stat. 648, 705; P.L. 98-525, § 632(a)(1), §§ 1401(e)(4), 1405(23), Oct. 19, 1984, 98 Stat. 2543, 2617, 2623; P.L. 98-557, § 19(7), Oct. 30, 1984, 98 Stat. 2869; P.L. 99-661, §§ 652(d), 703, Nov. 14, 1986, 100 Stat. 3889, 3900; P.L. 100-180, §§ 721(a), 726, Dec. 4, 1987, 101 Stat. 1115, 1117; P.L. 100-456, § 646(a), Sept. 29, 1988, 102 Stat. 1989; P.L. 101-189, § 730(a), Nov. 29, 1989, 103 Stat. 1481; P.L. 101-510, §§ 701(a), 702(a), 703, 712(a), 1484(g)(1), Nov. 5, 1990, 104 Stat. 1580, 1581, 1583, 1717; P.L. 102-190, §§ 702(b), 711, 712(a), 713, Dec. 5, 1991, 105 Stat. 1400, 1402, 1402, 1403; P.L. 102-484, §§ 704, 1052(13), Oct. 23, 1992, 106 Stat. 2432, 2499; P.L. 103-35, § 202(a)(5), May 31, 1993, 107 Stat. 101; P.L. 103-160, §§ 711, 716(c), Nov. 30, 1993, 107 Stat. 1688, 1693; P.L. 103-337, §§ 702(a), 707(a), Oct. 5, 1994, 108 Stat. 2797, 2800; P.L. 104-106, §§ 701, 731(a)-(d), Feb. 10, 1996, 110 Stat. 370, 380; P.L. 104-201, §§ 701(b)(2), 711, 731, 732, 735(c), Sept. 23, 1996, 110 Stat. 2587, 2590, 2597, 2599; P.L. 105-85, § 735, Nov. 18, 1997, 111 Stat. 1813; P.L. 106-398, § 1[§ 701(c)(1), 704(b), 722(b)(1), 757(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-172, 1654A-175, 1654A-185, 1654A-198; P.L. 107-107, § 701(b), (g)(2), 703(b), 707(a), (b), 1048(c)(5), Dec. 28, 2001, 115 Stat. 1158, 1161, 1162, 1163, 1226; P.L. 107-314, §§ 701(a), 702, 705(a), Dec. 2, 2002, 116 Stat. 2583, 2584.)

§ 1079a. CHAMPUS: treatment of refunds and other amounts collected

All refunds and other amounts collected in the administration of the Civilian Health and Medical Program of the Uniformed Services shall be credited to the appropriation available for that program for the fiscal year in which the refund or amount is collected.

(Added P.L. 104-201, § 733, Sept. 23, 1996, 110 Stat. 2597.)

§ 1079b. Procedures for charging fees for care provided to civilians; retention and use of fees collected

(a) REQUIREMENT TO IMPLEMENT PROCEDURES.—The Secretary of Defense shall implement procedures under which a military medical treatment facility may charge civilians who are not covered beneficiaries (or their insurers) fees representing the costs, as determined by the Secretary, of trauma and other medical care provided to such civilians.

(b) USE OF FEES COLLECTED.—A military medical treatment facility may retain and use the amounts collected under subsection (a) for—

- (1) trauma consortium activities;
- (2) administrative, operating, and equipment costs; and
- (3) readiness training.

(Added P.L. 107-107, § 732(a)(1), Dec. 28, 2001, 115 Stat. 1169.)

§ 1080. Contracts for medical care for spouses and children: election of facilities

(a) ELECTION.—A dependent covered by section 1079 of this title may elect to receive inpatient medical care either in (1) the facilities of the uniformed services, under the conditions prescribed by sections 1076-1078 of this title, or (2) the facilities provided under a plan contracted for under section 1079 of this title. However, under such regulations as the Secretary of Defense, after consulting the other administering Secretaries, may prescribe, the right to make this election may be limited for dependents residing in the area where the member concerned is assigned, if adequate medical facilities of the uniformed services are available in that area for those dependents.

(b) ISSUANCE OF NONAVAILABILITY-OF-HEALTH-CARE-STATEMENTS.—In determining whether to issue a nonavailability-of-health-care-statement for a dependent described in subsection (a), the commanding officer of a facility of the uniformed services may consider the availability of health care services for the dependent pursuant to any contract or agreement entered into under this chapter for the provision of health care services. Notwithstanding any other provision of law, with respect to obstetrics and gynecological care for beneficiaries not enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter, a nonavailability-of-health-care statement shall be required for receipt of health care services related to outpatient prenatal, outpatient or inpatient delivery, and outpatient post-partum care subsequent to the visit which confirms the pregnancy.

(c) WAIVERS AND EXCEPTIONS TO REQUIREMENTS.—(1) A covered beneficiary enrolled in a managed care plan offered pursuant to any contract or agreement under this chapter for the provision

of health care services shall not be required to obtain a nonavailability-of-health-care statement as a condition for the receipt of health care.

(2) The Secretary of Defense may waive the requirement to obtain nonavailability-of-health-care statements following an evaluation of the effectiveness of such statements in optimizing the use of facilities of the uniformed services.

(Added P.L. 85-861, § 1(25)(B), Sept. 2, 1958, 72 Stat. 1449; amended P.L. 96-513, § 511(36), Dec. 12, 1980, 94 Stat. 2923; P.L. 98-557, § 19(8), Oct. 30, 1984, 98 Stat. 2870; P.L. 103-160, § 716(b)(1), Nov. 30, 1993, 107 Stat. 1892; P.L. 104-201, § 734, Sept. 23, 1996, 110 Stat. 2598; P.L. 106-65, § 712(c), Oct. 5, 1999, 113 Stat. 687.)

§ 1081. Contracts for medical care for spouses and children: review and adjustment of payments

Each plan under section 1079 of this title shall provide for a review, and if necessary an adjustment of payments, by the appropriate administering Secretary, not later than 120 days after the close of each year the plan is in effect.

(Added P.L. 85-861, § 1(25)(B), Sept. 2, 1958, 72 Stat. 1449; amended P.L. 96-513, § 511(36), Dec. 12, 1980, 94 Stat. 2923; P.L. 97-375, § 104(a), Dec. 21, 1982, 96 Stat. 1819; P.L. 98-94, § 1268(5)(A), Sept. 24, 1983, 97 Stat. 706; P.L. 98-557, § 19(9), Oct. 30, 1984, 98 Stat. 2870.)

§ 1082. Contracts for health care: advisory committees

To carry out sections 1079-1081 and 1086 of this title, the Secretary of Defense may establish advisory committees on insurance, medical service, and health plans, to advise and make recommendations to him. He shall prescribe regulations defining their scope, activities, and procedures. Each committee shall consist of the Secretary, or his designee, as chairman, and such other persons as the Secretary may select. So far as possible, the members shall be representative of the organizations in the field of insurance, medical service, and health plans. They shall serve without compensation but may be allowed transportation and a per diem payment in place of subsistence and other expenses.

(Added P.L. 85-861, § 1(25)(B), Sept. 2, 1958, 72 Stat. 1449; amended P.L. 89-614, § 2(8), Sept. 30, 1966, 80 Stat. 866.)

§ 1083. Contracts for medical care for spouses and children: additional hospitalization

If a dependent covered by a plan under section 1079 of this title needs hospitalization beyond the time limits in that plan, and if the hospitalization is authorized in medical facilities of the uniformed services, he may be transferred to such a facility for additional hospitalization. If transfer is not feasible, the expenses of additional hospitalization in the civilian facility may be paid under such regulations as the Secretary of Defense may prescribe after consulting the other administering Secretaries.

(Added P.L. 85-861, § 1(25)(B), Sept. 2, 1958, 72 Stat. 1449; amended P.L. 96-513, § 511(36), Dec. 12, 1980, 94 Stat. 2923; P.L. 98-557, § 19(10), Oct. 30, 1984, 98 Stat. 2870.)

§ 1084. Determinations of dependency

A determination of dependency by an administering Secretary under this chapter is conclusive. However, the administering Secretary may change a determination because of new evidence or for other good cause. The Secretary's determination may not be reviewed in any court or by the General Accounting Office, unless there has been fraud or gross negligence.

(Added P.L. 85-861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1450; amended P.L. 89-614, §2(1), Sept. 30, 1966, 80 Stat. 862; P.L. 96-513, §511(34)(A), (36), Dec. 12, 1980, 94 Stat. 2922, 2923; P.L. 98-557 §19(11), Oct. 30, 1984, 98 Stat. 2870.)

§ 1085. Medical and dental care from another executive department: reimbursement

If a member or former member of a uniformed service under the jurisdiction of one executive department (or a dependent of such a member or former member) receives inpatient medical or dental care in a facility under the jurisdiction of another executive department, the appropriation for maintaining and operating the facility furnishing the care shall be reimbursed at rates established by the President to reflect the average cost of providing the care.

(Added P.L. 85-861, §1(25)(B), Sept. 2, 1958, 72 Stat. 1450; amended P.L. 89-264, §1, Oct. 19, 1965, 79 Stat. 989; P.L. 96-513, §511(36), (37), Dec. 12, 1980, 94 Stat. 2923; P.L. 98-94, §1268(6), Sept. 24, 1983, 97 Stat. 706; P.L. 98-557, §19(12), Oct. 30, 1984, 98 Stat. 2870; P.L. 99-145, §1303(a)(8), Nov. 8, 1985, 99 Stat. 739.)

§ 1086. Contracts for health benefits for certain members, former members, and their dependents

(a) To assure that health benefits are available for the persons covered by subsection (c), the Secretary of Defense, after consulting with the other administering Secretaries, shall contract under the authority of this section for health benefits for those persons under the same insurance, medical service, or health plans he contracts for under section 1079(a) of this title. However, eye examinations may not be provided under such plans for persons covered by subsection (c).

(b) For persons covered by this section the plans contracted for under section 1079(a) of this title shall contain the following provisions for payment by the patient:

(1) Except as provided in clause (2), the first \$150 each fiscal year of the charges for all types of care authorized by this section and received while in an outpatient status and 25 percent of all subsequent charges for such care during a fiscal year.

(2) A family group of two or more persons covered by this section shall not be required to pay collectively more than the first \$300 each fiscal year of the charges for all types of care authorized by this section and received while in an outpatient status and 25 percent of the additional charges for such care during a fiscal year.

(3) 25 percent of the charges for inpatient care. The Secretary of Defense may exempt a patient from paying such charges if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.

(4) A member or former member of a uniformed service covered by this section by reason of section 1074(b) of this title,

or an individual or family group of two or more persons covered by this section, may not be required to pay a total of more than \$3,000 for health care received during any fiscal year under a plan contracted for under section 1079(a) of this title.

(c) Except as provided in subsection (d), the following persons are eligible for health benefits under this section:

(1) Those covered by sections 1074(b) and 1076(b) of this title, except those covered by section 1072(2)(E) of this title.

(2) A dependent (other than a dependent covered by section 1072(2)(E) of this title) of a member of a uniformed service—

(A) who died while on active duty for a period of more than 30 days; or

(B) who died from an injury, illness, or disease incurred or aggravated—

(i) while on active duty under a call or order to active duty of 30 days or less, on active duty for training, or on inactive duty training; or

(ii) while traveling to or from the place at which the member is to perform, or has performed, such active duty, active duty for training, or inactive duty training.

(3) A dependent covered by clause (F), (G), or (H) of section 1072(2) of this title who is not eligible under paragraph (1).

(d)(1) A person who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) is not eligible for health benefits under this section.

(2) The prohibition contained in paragraph (1) shall not apply to a person referred to in subsection (c) who—

(A) is enrolled in the supplementary medical insurance program under part B of such title (42 U.S.C. 1395j et seq.); and

(B) in the case of a person under 65 years of age, is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to subparagraph (A) or (C) of section 226(b)(2) of such Act (42 U.S.C. 426(b)(2)) or section 226A(a) of such Act (42 U.S.C. 426-1(a)).

(3)(A) Subject to subparagraph (B), if a person described in paragraph (2) receives medical or dental care for which payment may be made under medicare and a plan contracted for under subsection (a), the amount payable for that care under the plan shall be the amount of the actual out-of-pocket costs incurred by the person for that care over the sum of—

(i) the amount paid for that care under medicare; and

(ii) the total of all amounts paid or payable by third party payers other than medicare.

(B) The amount payable for care under a plan pursuant to subparagraph (A) may not exceed the total amount that would be paid under the plan if payment for that care were made solely under the plan.

(C) In this paragraph:

(i) The term “medicare” means title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(ii) The term “third party payer” has the meaning given such term in section 1095(h)(1) of this title.

(4) The administering Secretaries shall develop a mechanism by which persons described in subparagraph (B) of paragraph (2) who do not satisfy the condition specified in subparagraph (A) of such paragraph are promptly notified of their ineligibility for health benefits under this section. In developing the notification mechanism, the administering Secretaries shall consult with the Administrator of the Centers for Medicare & Medicaid Services.

(e) A person covered by this section may elect to receive inpatient medical care either in (1) Government facilities, under the conditions prescribed in sections 1074 and 1076–1078 of this title, or (2) the facilities provided under a plan contracted for under this section. However, under joint regulations issued by the administering Secretaries, the right to make this election may be limited for those persons residing in an area where adequate facilities of the uniformed service are available. In addition, subsections (b) and (c) of section 1080 of this title shall apply in making the determination whether to issue a nonavailability of health care statement for a person covered by this section.

(f) The provisions of section 1079(h) of this title shall apply to payments for services by an individual health-care professional (or other noninstitutional health-care provider) under a plan contracted for under subsection (a).

(g) Section 1079(j) of this title shall apply to a plan contracted for under this section, except that no person eligible for health benefits under this section may be denied benefits under this section with respect to care or treatment for any service-connected disability which is compensable under chapter 11 of title 38 solely on the basis that such person is entitled to care or treatment for such disability in facilities of the Department of Veterans Affairs.

(h)(1) Subject to paragraph (2), the Secretary of Defense may, upon request, make payments under this section for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) to a hospital that does not impose a legal obligation on any of its patients to pay for such services.

(2) A payment under paragraph (1) may not exceed the average amount paid for comparable services in the geographic area in which the hospital is located or, if no comparable services are available in that area, in an area similar to the area in which the hospital is located.

(3) The Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this subsection to ensure that the hospital's practices of not billing patients for payment are not resulting in increased costs to the Government.

(4) The Secretary of Defense may require each hospital the Secretary approves for payment under this subsection to provide evidence that it has sources of revenue to cover unbilled costs.

(Added P.L. 89-614, §2(7), Sept. 30, 1966, 80 Stat. 865; amended P.L. 95-485, §806(a)(2), Oct. 20, 1978, 92 Stat. 1622; P.L. 96-173, §1, Dec. 29, 1979, 93 Stat. 1287; P.L. 96-513, §§501(14), 511(36), (39), Dec. 12, 1980, 94 Stat. 2908, 2923; P.L. 97-86, §906(a)(2), Dec. 1, 1981, 95 Stat. 1117; P.L. 97-252, §1004(c), Sept. 8, 1982, 96 Stat. 737; P.L. 98-94, §931(b), Sept. 24, 1983, 97 Stat. 649; P.L. 98-525, §632(a)(2), Oct. 19, 1984, 98 Stat. 2543; P.L. 98-557, §19(13), Oct. 30, 1984, 98 Stat. 2870; P.L. 99-145, §652(b), Nov. 8, 1985, 99 Stat. 656; P.L. 99-661, §604(f)(1)(C), Nov. 14, 1986, 100 Stat. 3877; P.L. 100-180, §721(b), Dec. 4, 1987, 101 Stat. 1115; P.L. 100-456, §646(b), Sept. 29, 1988, 102 Stat. 1989; P.L. 101-189, §§731(c)(2), 1621(a)(3), Nov. 29, 1989, 103 Stat. 1482, 1603; P.L. 101-510, §712(b), Nov. 5, 1990, 104 Stat. 1583; P.L. 102-190, §704(a), (b)(1), Dec. 5, 1991, 105 Stat. 1401; P.L. 102-484, §§703(a), 705(a), Oct. 23, 1992, 106 Stat. 2432; P.L. 103-35, §203(b)(2), May 31, 1993, 107 Stat. 102; P.L. 103-160, §716(b)(2),

Nov. 30, 1993, 107 Stat. 1693; P.L. 103–337, § 711, Oct. 5, 1994, 108 Stat. 2801; P.L. 104–106, § 732, Feb. 10, 1996, 110 Stat. 381; P.L. 104–201, § 734(a)(2), (b)(2), Sept. 23, 1996, 110 Stat. 2598; P.L. 106–398, § 1[§ 712(a)(1), 759], Oct. 30, 2000, 114 Stat. 1654, 1654A–176, 1654A–200; P.L. 108–173, § 900(e)(4)(A), Dec. 8, 2003, 117 Stat. 2373.)

§ 1086a. Certain former spouses: extension of period of eligibility for health benefits

(a) AVAILABILITY OF CONVERSION HEALTH POLICIES.—The Secretary of Defense shall inform each person who has been a dependent for a period of one year or more under section 1072(2)(H) of this title of the availability of a conversion health policy for purchase by the person. A conversion health policy offered under this subsection shall provide coverage for not less than a 24-month period.³

(b) EFFECT OF PURCHASE.—(1) Subject to paragraph (2), if a person who is a dependent for a one-year period under section 1072(2)(H) of this title purchases a conversion health policy within that period (or within a reasonable time after that period as prescribed by the Secretary of Defense), the person shall continue to be eligible for medical and dental care in the manner described in section 1076 of this title and health benefits under section 1086 of this title until the end of the 24-month period beginning on the later of—

(A) the date the person is no longer a dependent under section 1072(2)(H) of this title; and

(B) the date of the purchase of the policy.

(2) The extended period of eligibility provided under paragraph (1) shall apply only with regard to a condition of the person that—

(A) exists on the date on which coverage under the conversion health policy begins; and

(B) for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

(c) EFFECT OF UNAVAILABILITY OF POLICIES.—(1) If the Secretary of Defense is unable, within a reasonable time, to enter into a contract with a private insurer to offer conversion health policies under subsection (a) at a rate not to exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage, the Secretary shall provide the coverage required under such a policy through the Civilian Health and Medical Program of the Uniformed Services. Subject to paragraph (2), a person receiving coverage under this subsection shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the individual and Government contributions which would be required in the case of a person enrolled in a health benefits plan contracted for under section 1079 of this title; and

³Section 4408(c) of the National Defense Authorization Act for Fiscal Year 1993 (P.L. 102–484, 106 Stat. 2712) provides:

(c) TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES.—(1) No person may purchase a conversion health policy under section 1145(b) or 1086a of title 10, United States Code, on or after October 1, 1994. A person covered by such a conversion health policy on that date may cancel that policy and enroll in a health benefits plan under section 1078a of such title.

(2) No person may be covered concurrently by a conversion health policy under section 1145(b) or 1086a of such title and a health benefits plan under section 1078a of such title.

(B) an amount necessary for administrative expenses, but not to exceed two percent of the amount under subparagraph (A).

(2) The amount paid by a person who purchases a conversion health policy from the Secretary of Defense under paragraph (1) may not exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage.

(3) In order to reduce premiums required under paragraph (1), the Secretary of Defense may offer a program of coverage that, with respect to mental health services, offers reduced coverage and increased cost-sharing by the purchaser.

(d) **CONVERSION HEALTH POLICY DEFINED.**—In this section, the term “conversion health policy” means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and the private insurer, that is available for one-year period under section 1072(2)(H) of this title.

(Added P.L. 101-189, § 731(b)(1), Nov. 29, 1989, 103 Stat. 1482; amended P.L. 102-484, § 4407(b), Oct. 23, 1992, 106 Stat. 2707; P.L. 103-35, § 202(a)(16), May 31, 1994, 107 Stat. 102.)

§ 1086b. Prohibition against requiring retired members to receive health care solely through the Department of Defense

The Secretary of Defense may not take any action that would require, or have the effect of requiring, a member or former member of the armed forces who is entitled to retired or retainer pay to enroll to receive health care from the Federal Government only through the Department of Defense.

(Added P.L. 107-107, § 731(a), Dec. 28, 2001, 115 Stat. 1169.)

§ 1087. Programing facilities for certain members, former members, and their dependents in construction projects of the uniformed services

(a) Space for inpatient and outpatient care may be programed in facilities of the uniformed services for persons covered by sections 1074(b) and 1076(b) of this title. The maximum amount of space that may be so programed for a facility is the greater of—

(1) the amount of space that would be so programed for the facility in order to meet the requirements to be placed on the facility for support of the teaching and training of health-care professionals; and

(2) the amount of space that would be so programed for the facility based upon the most cost-effective provision of inpatient and outpatient care to persons covered by sections 1074(b) and 1076(b) of this title.

(b)(1) In making determinations for the purposes of clauses (1) and (2) of subsection (a), the Secretary concerned shall take into consideration—

(A) the amount of space that would be so programed for the facility based upon projected inpatient and outpatient workloads at the facility for persons covered by sections 1074(b) and 1076(b) of this title; and

(B) the anticipated capability of the medical and dental staff of the facility, determined in accordance with regulations prescribed by the Secretary of Defense and based upon realistic projections of the number of physicians and other health-care

providers that it can reasonably be expected will be assigned to or will otherwise be available to the facility.

(2) In addition, a determination made for the purpose of clause (2) of subsection (a) shall be made in accordance with an economic analysis (including a life-cycle cost analysis) of the facility and consideration of all reasonable and available medical care treatment alternatives (including treatment provided under a contract under section 1086 of this title or under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.)).

(Added P.L. 89-614, § 2(7), Sept. 30, 1966, 80 Stat. 866; amended P.L. 97-337, § 1, Oct. 15, 1982, 96 Stat. 1631; P.L. 98-525, § 1405(24), Oct. 19, 1984, 98 Stat. 2623; P.L. 99-661, § 1343(a)(4), Nov. 14, 1986, 100 Stat. 3992.)

§ 1088. Air evacuation patients: furnished subsistence

Notwithstanding any other provision of law, and under regulations to be prescribed by the Secretary concerned, a person entitled to medical and dental care under this chapter may be furnished subsistence without charge while being evacuated as a patient by military aircraft of the United States.

(Added P.L. 91-481, § 2(1), Oct. 21, 1970, 84 Stat. 1081.)

§ 1089. Defense of certain suits arising out of medical malpractice

(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the armed forces, the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32, the Department of Defense, the Armed Forces Retirement Home, or the Central Intelligence Agency in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of his duties or employment therein or therefor shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) whose act or omission gave rise to such action or proceeding. This subsection shall also apply if the physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or the estate of such person) involved is serving under a personal services contract entered into under section 1091 of this title.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or the estate of such person) for any such injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the head of the agency concerned to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district em-

bracing the place wherein the action or proceeding is brought, to the Attorney General and to the head of the agency concerned.

(c) Upon a certification by the Attorney General that any person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the District Court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to any cause of action arising out of a negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations).

(f)(1) The head of the agency concerned may, to the extent that the head of the agency concerned considers appropriate, hold harmless or provide liability insurance for any person described in subsection (a) for damages for personal injury, including death, caused by such person's negligent or wrongful act or omission in the performance of medical, dental, or related health care functions (including clinical studies and investigations) while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 1346(b) of title 28, for such damage or injury.

(2) With respect to the Secretary of Defense and the Armed Forces Retirement Home Board, the authority provided by paragraph (1) also includes the authority to provide for reasonable attorney's fees for persons described in subsection (a), as determined necessary pursuant to regulations prescribed by the head of the agency concerned.

(g) In this section, the term "head of the agency concerned" means—

(1) the Director of Central Intelligence, in the case of an employee of the Central Intelligence Agency;

(2) the Secretary of Homeland Security, in the case of a member or employee of the Coast Guard when it is not operating as a service in the Navy;

(3) the Armed Forces Retirement Home Board, in the case of an employee of the Armed Forces Retirement Home; and

(4) the Secretary of Defense, in all other cases.

(Added P.L. 94-464, § 1(a), Oct. 8, 1976, 90 Stat. 1985; amended P.L. 97-124, § 2, Dec. 29, 1981, 95 Stat. 1666; P.L. 98-94, § 934(a), (b), (c), Sept. 24, 1983, 97 Stat. 651, 652; P.L. 100-180, § 1231(18)(A), Dec. 4, 1987, 101 Stat. 1161; P.L. 101-510, § 1533(a)(1)(A), (B), Nov. 5, 1990, 104 Stat. 1733; P.L. 105-85, § 736(b), Nov. 18, 1997, 111 Stat. 1814; P.L. 107-296, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

§ 1090. Identifying and treating drug and alcohol dependence

The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations, implement procedures using each practical and available method, and provide necessary facilities to identify, treat, and rehabilitate members of the armed forces who are dependent on drugs or alcohol.

(Added P.L. 97-295, § 1(15)(A), Oct. 12, 1982, 96 Stat. 1290; amended P.L. 98-94, § 1268(7), Sept. 24, 1983, 97 Stat. 706; P.L. 101-510, § 553, Nov. 5, 1990, 104 Stat. 1567; P.L. 107-296, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

§ 1091. Personal services contracts

(a) **AUTHORITY.**—(1) The Secretary of Defense, with respect to medical treatment facilities of the Department of Defense, and the Secretary of Homeland Security, with respect to medical treatment facilities of the Coast Guard when the Coast Guard is not operating as a service in the Navy, may enter into personal services contracts to carry out health care responsibilities in such facilities, as determined to be necessary by the Secretary. The authority provided in this subsection is in addition to any other contract authorities of the Secretary, including authorities relating to the management of such facilities and the administration of this chapter.

(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may also enter into personal services contracts to carry out other health care responsibilities of the Secretary (such as the provision of medical screening examinations at Military Entrance Processing Stations) at locations outside medical treatment facilities, as determined necessary pursuant to regulations prescribed by the Secretary.

(b) **LIMITATION ON AMOUNT OF COMPENSATION.**—In no case may the total amount of compensation paid to an individual in any year under a personal services contract entered into under subsection (a) exceed the amount of annual compensation (excluding the allowances for expenses) specified in section 102 of title 3.

(c) **PROCEDURES.**—(1) The Secretary shall establish by regulation procedures for entering into personal services contracts with individuals under subsection (a). At a minimum, such procedures shall assure—

(A) the provision of adequate notice of contract opportunities to individuals residing in the area of the medical treatment facility involved; and

(B) consideration of interested individuals solely on the basis of the qualifications established for the contract and the proposed contract price.

(2) Upon the establishment of the procedures under paragraph (1), the Secretary may exempt contracts covered by this section

from the competitive contracting requirements specified in section 2304 of this title or any other similar requirements of law.

(d) EXCEPTIONS.—The procedures and exemptions provided under subsection (c) shall not apply to personal services contracts entered into under subsection (a) with entities other than individuals or to any contract that is not an authorized personal services contract under subsection (a).

(Added P.L. 98-94, § 932(a)(1), Sept. 24, 1983, 97 Stat. 649; amended P.L. 101-510, § 714, Nov. 5, 1990, 104 Stat. 1534; P.L. 103-160, § 712(a)(1), Nov. 30, 1993, 107 Stat. 1688; revised in its entirety P.L. 103-160, § 712(a)(1), Nov. 30, 1993, 107 Stat. 1688; P.L. 104-106, § 733(a), Feb. 10, 1996, 110 Stat. 381; P.L. 105-85, § 736(a), Nov. 18, 1997, 111 Stat. 1814; P.L. 105-261, § 733(a), Oct. 17, 1998, 112 Stat. 2072; P.L. 106-398, § 1[§ 705], Oct. 30, 2000, 114 Stat. 1654, 1654A-175; P.L. 107-314, § 707, Dec. 2, 2002, 116 Stat. 2585; P.L. 107-296, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; P.L. 108-136, § 721, Nov. 24, 2003, 117 Stat. 1531.)

§ 1092. Studies and demonstration projects relating to delivery of health and medical care

(a)(1) The Secretary of Defense, in consultation with the other administering Secretaries, shall conduct studies and demonstration projects on the health care delivery system of the uniformed services with a view to improving the quality, efficiency, convenience, and cost effectiveness of providing health care services (including dental care services) under this title to members and former members and their dependents. Such studies and demonstration projects may include the following:

(A) Alternative methods of payment for health and medical care services.

(B) Cost-sharing by eligible beneficiaries.

(C) Methods of encouraging efficient and economical delivery of health and medical care services.

(D) Innovative approaches to delivery and financing of health and medical care services.

(E) Alternative approaches to reimbursement for the administrative charges of health care plans.

(F) Prepayment for medical care services provided to maintain the health of a defined population.

(2) The Secretary of Defense shall include in the studies conducted under paragraph (1) alternative programs for the provision of dental care to the spouses and dependents of members of the uniformed services who are on active duty, including a program under which dental care would be provided the spouses and dependents of such members under insurance or dental plan contracts. A demonstration project may not be conducted under this section that provides for the furnishing of dental care under an insurance or dental plan contract.

(b) Subject to the availability of appropriations for that purpose, the Secretary of Defense may enter into contracts with public or private agencies, institutions, and organizations to conduct studies and demonstration projects under subsection (a).

(c) The Secretary of Defense may obtain the advice and recommendations of such advisory committees as the Secretary considers appropriate. Each such committee consulted by the Secretary under this subsection shall evaluate the proposed study or demonstration project as to the soundness of the objectives of such study or demonstration project, the likelihood of obtaining productive results based on such study or demonstration project, the resources which were required to conduct such study or demonstra-

tion project, and the relationship of such study or demonstration project to other ongoing or completed studies and demonstration projects.

(Added P.L. 98–94, § 933(a)(1), Sept. 24, 1983, 97 Stat. 650; amended P.L. 98–557, § 19(14), Oct. 30, 1984, 98 Stat. 2870; P.L. 105–261, § 1031(a), Oct. 17, 1998, 112 Stat. 2123.)

§ 1093. Performance of abortions: restrictions

(a) RESTRICTION ON USE OF FUNDS.—Funds available to the Department of Defense may not be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

(b) RESTRICTION ON USE OF FACILITIES.—No medical treatment facility or other facility of the Department of Defense may be used to perform an abortion except where the life of the mother would be endangered if the fetus were carried to term or in a case in which the pregnancy is the result of an act of rape or incest.

(Added P.L. 98–525, § 1401(e)(5), Oct. 19, 1984, 98 Stat. 2617; amended P.L. 104–106, § 738(a), (b)(1), Feb. 10, 1996, 110 Stat. 383.)

§ 1094. Licensure requirement for health-care professionals

(a)(1) A person under the jurisdiction of the Secretary of a military department may not provide health care independently as a health-care professional under this chapter unless the person has a current license to provide such care. In the case of a physician, the physician may not provide health care as a physician under this chapter unless the current license is an unrestricted license that is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license.

(2) The Secretary of Defense may waive paragraph (1) with respect to any person in unusual circumstances. The Secretary shall prescribe by regulation the circumstances under which such a waiver may be granted.

(b) The commanding officer of each health care facility of the Department of Defense shall ensure that each person who provides health care independently as a health-care professional at the facility meets the requirement of subsection (a).

(c)(1) A person (other than a person subject to chapter 47 of this title) who provides health care in violation of subsection (a) is subject to a civil money penalty of not more than \$5,000.

(2) The provisions of subsections (c) and (e) through (h) of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) shall apply to the imposition of a civil money penalty under paragraph (1) in the same manner as they apply to the imposition of a civil money penalty under that section, except that for purposes of this subsection—

(A) a reference to the Secretary in that section is deemed a reference to the Secretary of Defense; and

(B) a reference to a claimant in subsection (e) of that section is deemed a reference to the person described in paragraph (1).

(d)(1) Notwithstanding any law regarding the licensure of health care providers, a health-care professional described in paragraph (2) may practice the health profession or professions of the health-care professional in any State, the District of Columbia, or

a Commonwealth, territory, or possession of the United States, regardless of whether the practice occurs in a health care facility of the Department of Defense, a civilian facility affiliated with the Department of Defense, or any other location authorized by the Secretary of Defense.

(2) A health-care professional referred to in paragraph (1) is a member of the armed forces who—

(A) has a current license to practice medicine, osteopathic medicine, dentistry, or another health profession; and

(B) is performing authorized duties for the Department of Defense.

(e) In this section:

(1) The term “license”—

(A) means a grant of permission by an official agency of a State, the District of Columbia, or a Commonwealth, territory, or possession of the United States to provide health care independently as a health-care professional; and

(B) includes, in the case of such care furnished in a foreign country by any person who is not a national of the United States, a grant of permission by an official agency of that foreign country for that person to provide health care independently as a health-care professional.

(2) The term “health-care professional” means a physician, dentist, clinical psychologist, or nurse and any other person providing direct patient care as may be designated by the Secretary of Defense in regulations.

(Added P.L. 99–145, § 653(a)(1), Nov. 8, 1985, 99 Stat. 658; amended P.L. 99–661, § 1343(a)(1), Nov. 14, 1986, 100 Stat. 3992; P.L. 100–189, § 1622(e)(2)–(3), Nov. 29, 1989, 103 Stat. 1605; P.L. 101–189, §§ 653(e)(1), 1622(e)(3), Nov. 29, 1989, 103 Stat. 1463, 1605; P.L. 105–85, § 737, Nov. 18, 1997, 111 Stat. 1814; P.L. 105–261, § 743(a), Oct. 17, 1998, 112 Stat. 2072.)

§ 1094a. Continuing medical education requirements: system for monitoring physician compliance

The Secretary of Defense shall establish a mechanism for ensuring that each person under the jurisdiction of the Secretary of a military department who provides health care under this chapter as a physician satisfies the continuing medical education requirements applicable to the physician.

(Added P.L. 105–261, § 734(b), Oct. 17, 1998, 112 Stat. 2073.)

§ 1095. Health care services incurred on behalf of covered beneficiaries: collection from third-party payers

(a)(1)⁴ In the case of a person who is a covered beneficiary, the United States shall have the right to collect from a third-party payer reasonable charges for health care services incurred by the United States on behalf of such person through a facility of the uniformed services to the extent that the person would be eligible to receive reimbursement or indemnification from the third-party payer if the person were to incur such charges on the person’s own

⁴Section 8026 of the Department of Defense Appropriations Act, 2004 (P.L. 108–87, 117 Stat. 1077) provides:

Sec. 8026. During the current fiscal year [FY04], net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility’s direct budget amount.

behalf. If the insurance, medical service, or health plan of that payer includes a requirement for a deductible or copayment by the beneficiary of the plan, then the amount that the United States may collect from the third-party payer is a reasonable charge for the care provided less the appropriate deductible or copayment amount.

(2) A covered beneficiary may not be required to pay an additional amount to the United States for health care services by reason of this section.

(b) No provision of any insurance, medical service, or health plan contract or agreement having the effect of excluding from coverage or limiting payment of charges for certain care shall operate to prevent collection by the United States under subsection (a) if that care is provided—

- (1) through a facility of the uniformed services;
- (2) directly or indirectly by a governmental entity;
- (3) to an individual who has no obligation to pay for that care or for whom no other person has a legal obligation to pay; or
- (4) by a provider with which the third party payer has no participation agreement.

(c) Under regulations prescribed under subsection (f), records of the facility of the uniformed services that provided health care services to a beneficiary of an insurance, medical service, or health plan of a third-party payer shall be made available for inspection and review by representatives of the payer from which collection by the United States is sought.

(d) Notwithstanding subsections (a) and (b), and except as provided in subsection (j), collection may not be made under this section in the case of a plan administered under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq.).

(e)(1) The United States may institute and prosecute legal proceedings against a third-party payer to enforce a right of the United States under this section.

(2) The administering Secretary may compromise, settle, or waive a claim of the United States under this section.

(f) The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section. Such regulations shall provide for computation of the reasonable cost of health care services. Computation of such reasonable cost may be based on—

- (1) per diem rates;
- (2) all-inclusive per visit rates;
- (3) diagnosis-related groups; or
- (4) such other method as may be appropriate.

(g) Amounts collected under this section from a third-party payer or under any other provision of law from any other payer for health care services provided at or through a facility of the uniformed services shall be credited to the appropriation supporting the maintenance and operation of the facility and shall not be taken into consideration in establishing the operating budget of the facility.

(h) In this section:

- (1) The term “third-party payer” means an entity that provides an insurance, medical service, or health plan by contract

or agreement, including an automobile liability insurance or no fault insurance carrier, and any other plan or program that is designed to provide compensation or coverage for expenses incurred by a beneficiary for health care services or products. Such term also includes entities described in subsection (j) under the terms and to the extent provided in such subsection and a workers' compensation program or plan.

(2) The term "insurance, medical service, or health plan" includes a preferred provider organization, an insurance plan described as Medicare supplemental insurance, and a personal injury protection plan or medical payments benefit plan for personal injuries resulting from the operation of a motor vehicle.

(3) The term "health care services" includes products provided or purchased through a facility of the uniformed services.

(i)(1) In the case of a third-party payer that is an automobile liability insurance or no fault insurance carrier, the right of the United States to collect under this section shall extend to health care services provided to a person entitled to health care under section 1074(a) of this title.

(2) In cases in which a tort liability is created upon some third person, collection from a third-party payer that is an automobile liability insurance carrier shall be governed by the provisions of Public Law 87-693 (42 U.S.C. 2651 et seq.).

(j) The Secretary of Defense may enter into an agreement with any health maintenance organization, competitive medical plan, health care prepayment plan, or other similar plan (pursuant to regulations issued by the Secretary) providing for collection under this section from such organization or plan for services provided to a covered beneficiary who is an enrollee in such organization or plan.

(k)(1) To improve the administration of this section and sections 1079(j)(1) and 1086(d) of this title, the Secretary of Defense, in consultation with the other administering Secretaries, may prescribe regulations providing for the collection of information regarding insurance, medical service, or health plans of third-party payers held by covered beneficiaries.

(2) The collection of information under regulations prescribed under paragraph (1) shall be conducted in the same manner as is provided in section 1862(b)(5) of the Social Security Act (42 U.S.C. 1395y(b)(5)). The Secretary may provide for obtaining from the Commissioner of Social Security employment information comparable to the information provided to the Administrator of the Centers for Medicare & Medicaid Services pursuant to such section. Such regulations may require the mandatory disclosure of Social Security account numbers for all covered beneficiaries.

(3) The Secretary may disclose relevant employment information collected under this subsection to fiscal intermediaries or other designated contractors.

(4) The Secretary may provide for contacting employers of covered beneficiaries to obtain group health plan information comparable to the information authorized to be obtained under section 1862(b)(5)(C) of the Social Security Act (42 U.S.C. 1395y(b)(5)(C)). Notwithstanding clause (iii) of such section, clause (ii) of such sec-

tion regarding the imposition of civil money penalties shall apply to the collection of information under this paragraph.

(5) Information obtained under this subsection may not be disclosed for any purpose other than to carry out the purpose of this section and sections 1079(j)(1) and 1086(d) of this title.

(Added P.L. 99-272, § 2001(a)(1), April 7, 1986, 100 Stat. 100; amended P.L. 101-189, §§ 727(a), 1622(e)(5) Nov. 29, 1989, 103 Stat. 1480, 1605; P.L. 101-510, § 713, Nov. 5, 1990, 104 Stat. 1583; P.L. 102-25, § 701(j)(8), April 6, 1991, 105 Stat. 116; P.L. 102-190, § 714, Dec. 5, 1991, 105 Stat. 1403; P.L. 103-160, § 713, Nov. 30, 1993, 107 Stat. 1689-1690; P.L. 103-337, §§ 714(b), 1070(b)(6), Oct. 5, 1994, 108 Stat. 2802, 2857; P.L. 104-106, § 734, Feb. 10, 1996, 110 Stat. 381; P.L. 104-201, § 735(a), (b), Sept. 23, 1996, 110 Stat. 2598; P.L. 106-65, § 716(c)(1), Oct. 5, 1999, 113 Stat. 691; P.L. 107-314, § 1041(a)(5), Dec. 2, 2002, 116 Stat. 2645; P.L. 108-173, § 900(e)(4)(B), Dec. 8, 2003, 117 Stat. 2373.)

§ 1095a. Medical care: members held as captives and their dependents

(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) any person who is a former captive, and any dependent of that person or of a person who is in a captive status, for health care and other expenses related to such care, to the extent that such care—

(1) is incident to the captive status; and

(2) is not covered—

(A) by any other Government medical or health program; or

(B) by insurance.

(b) In the case of any person who is eligible for medical care under section 1074 or 1076 of this title, such regulations shall require that, whenever practicable, such care be provided in a facility of the uniformed services.

(c) In this section:

(1) The terms “captive status” and “former captive” have the meanings given those terms in section 559 of title 37.

(2) The term “dependent” has the meaning given that term in section 551 of that title.

(Added as § 1095 P.L. 99-399, § 806(c)(1), Aug. 27, 1986, 100 Stat. 886; redesignated § 1095a P.L. 100-26, § 7(e)(2), April 21, 1987, 101 Stat. 281; amended P.L. 100-526, § 106(b)(1), Oct. 24, 1988, 102 Stat. 2625.)

§ 1095b. TRICARE program: contractor payment of certain claims

(a) PAYMENT OF CLAIMS.—(1) The Secretary of Defense may authorize a contractor under the TRICARE program to pay a claim described in paragraph (2) before seeking to recover from a third-party payer the costs incurred by the contractor to provide health care services that are the basis of the claim to a beneficiary under such program.

(2) A claim under this paragraph is a claim—

(A) that is submitted to the contractor by a provider under the TRICARE program for payment for services for health care provided to a covered beneficiary; and

(B) that is identified by the contractor as a claim for which a third-party payer may be liable.

(b) RECOVERY FROM THIRD-PARTY PAYERS.—The United States shall have the same right to collect charges related to claims described in subsection (a) as charges for claims under section 1095 of this title.

(c) DEFINITION OF THIRD-PARTY PAYER.—In this section, the term “third-party payer” has the meaning given that term in section 1095(h) of this title, except that such term excludes primary medical insurers.

(Added P.L. 105–261, § 711(a), Oct. 17, 1998, 112 Stat. 2058; amended P.L. 106–65, § 716(c)(2), Oct. 5, 1999, 113 Stat. 692.)

§ 1095c. TRICARE program: facilitation of processing of claims

(a) REDUCTION OF PROCESSING TIME.—(1) With respect to claims for payment for medical care provided under the TRICARE program, the Secretary of Defense shall implement a system for processing of claims under which—

(A) 95 percent of all clean claims must be processed not later than 30 days after the date that such claims are submitted to the claims processor; and

(B) 100 percent of all clean claims must be processed not later than 100 days after the date that such claims are submitted to the claims processor.

(2) The Secretary may, under the system required by paragraph (1) and consistent with the provisions in chapter 39 of title 31 (commonly referred to as the “Prompt Payment Act”), require that interest be paid on clean claims that are not processed within 30 days.

(3) For purposes of this subsection, the term “clean claim” means a claim that has no defect, impropriety (including a lack of any required substantiating documentation), or particular circumstance requiring special treatment that prevents timely payment on the claim under this section.

(b) REQUIREMENT TO PROVIDE START-UP TIME FOR CERTAIN CONTRACTORS.—(1) Except as provided in paragraph (3), the Secretary of Defense shall not require that a contractor described in paragraph (2) begin to provide managed care support pursuant to a contract to provide such support under the TRICARE program until at least nine months after the date of the award of the contract, but in no case later than one year after the date of such award.

(2) A contractor under this paragraph is a contractor who is awarded a contract to provide managed care support under the TRICARE program—

(A) who has not previously been awarded such a contract by the Department of Defense; or

(B) who has previously been awarded such a contract by the Department of Defense but for whom the subcontractors have not previously been awarded the subcontracts for such a contract.

(3) The Secretary may reduce the nine-month start-up period required under paragraph (1) if—

(A) the Secretary—

(i) determines that a shorter period is sufficient to ensure effective implementation of all contract requirements; and

(ii) submits notification to the Committees on Armed Services of the House of Representatives and the Senate of

the Secretary's intent to reduce the nine-month start-up period; and

(B) 60 days have elapsed since the date of such notification.

(c) **INCENTIVES FOR ELECTRONIC PROCESSING.**—The Secretary of Defense shall require that new contracts for managed care support under the TRICARE program provide that the contractor be permitted to provide financial incentives to health care providers who file claims for payment electronically.

(d) **CORRESPONDENCE TO MEDICARE CLAIMS INFORMATION REQUIREMENTS.**—The Secretary of Defense, in consultation with the other administering Secretaries, shall limit the information required in support of claims for payment for health care items and services provided under the TRICARE program to that information that is identical to the information that would be required for claims for reimbursement for those items and services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) except for that information, if any, that is uniquely required by the TRICARE program. The Secretary of Defense shall report to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives any information that is excepted under this provision, and the justification for that exception.

(Added P.L. 106–65, § 713(a)(1), Oct. 5, 1999, 113 Stat. 688; amended P.L. 107–107, § 708(b), Dec. 28, 2001, 115 Stat. 1164; P.L. 107–314, § 711(a), Dec. 2, 2002, 116 Stat. 2588.)

§ 1095d. TRICARE program: waiver of certain deductibles

(a) **WAIVER AUTHORIZED.**—The Secretary of Defense may waive the deductible payable for medical care provided under the TRICARE program to an eligible dependent of—

(1) a member of a reserve component on active duty pursuant to a call or order to active duty for a period of less than one year; or

(2) a member of the National Guard on full-time National Guard duty pursuant to a call or order to full-time National Guard duty for a period of less than one year.

(b) **ELIGIBLE DEPENDENT.**—As used in this section, the term “eligible dependent” means a dependent described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(Added P.L. 106–65, § 714(a), Oct. 5, 1999, 113 Stat. 689; amended P.L. 106–398, § 1[§ 1087(a)(7)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290.)

§ 1095e. TRICARE program: beneficiary counseling and assistance coordinators

(a) **ESTABLISHMENT OF POSITIONS.**—The Secretary of Defense shall require in regulations that—

(1) each lead agent under the TRICARE program—

(A) designate a person to serve full-time as a beneficiary counseling and assistance coordinator for beneficiaries under the TRICARE program;

(B) designate for each of the TRICARE program regions at least one person (other than a person designated under subparagraph (A)) to serve full-time as a beneficiary counseling and assistance coordinator solely for members

of the reserve components and their dependents who are beneficiaries under the TRICARE program; and

(C) provide for toll-free telephone communication between such beneficiaries and the beneficiary counseling and assistance coordinator; and

(2) the commander of each military medical treatment facility under this chapter designate a person to serve, as a primary or collateral duty, as beneficiary counseling and assistance coordinator for beneficiaries under the TRICARE program served at that facility.

(b) DUTIES.—The Secretary shall prescribe the duties of the position of beneficiary counseling and assistance coordinator in the regulations required by subsection (a).

(Added P.L. 106–65, § 715(a)(1), Oct. 5, 1999, 113 Stat. 690; amended P.L. 108–136, § 707, Nov. 24, 2003, 117 Stat. 1529.)

§ 1095f. TRICARE program: referrals for specialty health care

The Secretary of Defense shall ensure that no contract for managed care support under the TRICARE program includes any requirement that a managed care support contractor require a primary care or specialty care provider to obtain prior authorization before referring a patient to a specialty care provider that is part of the network of health care providers or institutions of the contractor.

(Added P.L. 106–398, § 1[§ 728(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–189.)

§ 1096. Military-civilian health services partnership program

(a) RESOURCES SHARING AGREEMENTS.—The Secretary of Defense may enter into an agreement providing for the sharing of resources between facilities of the uniformed services and facilities of a civilian health care provider or providers that the Secretary contracts with under section 1079, 1086, or 1097 of this title if the Secretary determines that such an agreement would result in the delivery of health care to which covered beneficiaries are entitled under this chapter in a more effective, efficient, or economical manner.

(b) ELIGIBLE RESOURCES.—An agreement entered into under subsection (a) may provide for the sharing of—

(1) personnel (including support personnel);

(2) equipment;

(3) supplies; and

(4) any other items or facilities necessary for the provision of health care services.

(c) COMPUTATION OF CHARGES.—A covered beneficiary, with respect to care provided to such beneficiary in facilities of the uniformed services under a sharing agreement entered into under subsection (a), shall pay—

(1) in the case of a dependent, the charges prescribed by section 1078 of this title; and

(2) in the case of a member or former member entitled to retired or retainer pay, the charges prescribed by section 1075 of this title.

(d) REIMBURSEMENT FOR LICENSE FEES.—In any case in which it is necessary for a member of the uniformed services to pay a pro-

professional license fee imposed by a government in order to provide health care services at a facility of a civilian health care provider pursuant to an agreement entered into under subsection (a), the Secretary of Defense may reimburse the member for up to \$500 of the amount of the license fee paid by the member.

(Added P.L. 99-661, § 701(a)(1), Nov. 14, 1986, 100 Stat. 3894; amended P.L. 103-337, § 712, Oct. 5, 1994, 108 Stat. 2801.)

§ 1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

(a) IN GENERAL.—The Secretary of Defense, after consulting with the other administering Secretaries, may contract for the delivery of health care to which covered beneficiaries are entitled under this chapter. The Secretary may enter into a contract under this section with any of the following:

- (1) Health maintenance organizations.
- (2) Preferred provider organizations.
- (3) Individual providers, individual medical facilities, or insurers.
- (4) Consortiums of such providers, facilities, or insurers.

(b) SCOPE OF COVERAGE UNDER HEALTH CARE PLANS.—A contract entered into under this section may provide for the delivery of—

- (1) selected health care services;
- (2) total health care services for selected covered beneficiaries; or
- (3) total health care services for all covered beneficiaries who reside in a geographical area designated by the Secretary.

(c) COORDINATION WITH FACILITIES OF THE UNIFORMED SERVICES.—The Secretary of Defense may provide for the coordination of health care services provided pursuant to any contract or agreement under this section with those services provided in medical treatment facilities of the uniformed services. Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary may not deny access to facilities of the uniformed services to a covered beneficiary on the basis of whether the beneficiary enrolled or declined enrollment in any program established under, or operating in connection with, any contract under this section. Notwithstanding the preferences established by sections 1074(b) and 1076 of this title, the Secretary shall, as an incentive for enrollment, establish reasonable preferences for services in facilities of the uniformed services for covered beneficiaries enrolled in any program established under, or operating in connection with, any contract under this section.

(d) COORDINATION WITH OTHER HEALTH CARE PROGRAMS.—In the case of a covered beneficiary who is enrolled in a managed health care program not operated under the authority of this chapter, the Secretary may contract under this section with such other managed health care program for the purpose of coordinating the beneficiary's dual entitlements under such program and this chapter. A managed health care program with which arrangements may be made under this subsection includes any health maintenance organization, competitive medical plan, health care prepayment plan, or other managed care program recognized pursuant to regulations issued by the Secretary.

(e) CHARGES FOR HEALTH CARE.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided under this section. In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the applicable deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans. Without imposing additional costs on covered beneficiaries who participate in contracts for health care services under this section or health care plans offered under section 1099 of this title, the Secretary shall permit such covered beneficiaries to pay, on a quarterly basis, any enrollment fee required for such participation.

(Added P.L. 99-661, § 701(a)(1), Nov. 14, 1986, 100 Stat. 3895; amended P.L. 103-337, §§ 713, 714(a), Oct. 5, 1994, 108 Stat. 2802; P.L. 104-106, §§ 712, 713, Feb. 10, 1996, 110 Stat. 374.)

§ 1097a. TRICARE Prime: automatic enrollments; payment options

(a) AUTOMATIC ENROLLMENT OF CERTAIN DEPENDENTS.—Each dependent of a member of the uniformed services in grade E4 or below who is entitled to medical and dental care under section 1076(a)(2)(A) of this title and resides in the catchment area of a facility of a uniformed service offering TRICARE Prime shall be automatically enrolled in TRICARE Prime at the facility. The Secretary concerned shall provide written notice of the enrollment to the member. The enrollment of a dependent of the member may be terminated by the member or the dependent at any time.

(b) AUTOMATIC RENEWAL OF ENROLLMENTS OF COVERED BENEFICIARIES.—(1) An enrollment of a covered beneficiary in TRICARE Prime shall be automatically renewed upon the expiration of the enrollment unless the renewal is declined.

(2) Not later than 15 days before the expiration date for an enrollment of a covered beneficiary in TRICARE Prime, the Secretary concerned shall—

(A) transmit a written notification of the pending expiration and renewal of enrollment to the covered beneficiary or, in the case of a dependent of a member of the uniformed services, to the member; and

(B) afford the beneficiary or member, as the case may be, an opportunity to decline the renewal of enrollment.

(c) PAYMENT OPTIONS FOR RETIREES.—A member or former member of the uniformed services eligible for medical care and dental care under section 1074(b) of this title may elect to have any fee payable by the member or former member for an enrollment in TRICARE Prime withheld from the member's retired pay, retainer pay, or equivalent pay, as the case may be, or to be paid from a financial institution through electronic transfers of funds. The fee shall be paid in accordance with the election. A member may elect under this section to pay the fee in full at the beginning of the enrollment period or to make payments on a monthly or quarterly basis.

(d) REGULATIONS AND EXCEPTIONS.—The Secretary of Defense shall prescribe regulations, including procedures, to carry out this section. Regulations prescribed to carry out the automatic enrollment requirements under this section may include such exceptions to the automatic enrollment procedures as the Secretary determines appropriate for the effective operation of TRICARE Prime.

(e) NO COPAYMENT FOR IMMEDIATE FAMILY.—No copayment shall be charged a member for care provided under TRICARE Prime to a dependent of a member of the uniformed services described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(f) DEFINITIONS.—In this section:

(1) The term “TRICARE Prime” means the managed care option of the TRICARE program.

(2) The term “catchment area”, with respect to a facility of a uniformed service, means the service area of the facility, as designated under regulations prescribed by the administering Secretaries.

(Added P.L. 105–261, §712(a), Oct. 17, 1998, 112 Stat. 2058; amended P.L. 106–398, §1[§752(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–195; P.L. 107–107, §1048(a)(11), Dec. 28, 2001, 115 Stat. 1223.)

§ 1097b. TRICARE program: financial management

(a) REIMBURSEMENT OF PROVIDERS.—(1) Subject to paragraph (2), the Secretary of Defense may reimburse health care providers under the TRICARE program at rates higher than the reimbursement rates otherwise authorized for the providers under that program if the Secretary determines that application of the higher rates is necessary in order to ensure the availability of an adequate number of qualified health care providers under that program.

(2) The amount of reimbursement provided under paragraph (1) with respect to a health care service may not exceed the lesser of the following:

(A) The amount equal to the local fee for service charge for the service in the service area in which the service is provided as determined by the Secretary based on one or more of the following payment rates:

(i) Usual, customary, and reasonable.

(ii) The Health Care Finance Administration’s Resource Based Relative Value Scale.

(iii) Negotiated fee schedules.

(iv) Global fees.

(v) Sliding scale individual fee allowances.

(B) The amount equal to 115 percent of the CHAMPUS maximum allowable charge for the service.

(b) THIRD-PARTY COLLECTIONS.—(1) A medical treatment facility of the uniformed services under the TRICARE program has the same right as the United States under section 1095 of this title to collect from a third-party payer the reasonable charges for health care services described in paragraph (2) that are incurred by the facility on behalf of a covered beneficiary under that program.

(2) The Secretary of Defense shall prescribe regulations for the administration of this subsection. The regulations shall set forth the method to be used for the computation of the reasonable

charges for inpatient, outpatient, and other health care services. The method of computation may be—

- (A) a method that is based on—
 - (i) per diem rates;
 - (ii) all-inclusive rates for each visit;
 - (iii) diagnosis-related groups; or
 - (iv) rates prescribed under the regulations implementing sections 1079 and 1086 of this title; or
- (B) any other method considered appropriate.

(c) CONSULTATION REQUIREMENT.—The Secretary of Defense shall carry out the responsibilities under this section after consultation with the other administering Secretaries.

(Added P.L. 106–65, § 716(a)(1), Oct. 5, 1999, 113 Stat. 690.)

§ 1098. Incentives for participation in cost-effective health care plans

(a) WAIVER OF LIMITATIONS AND COPAYMENTS.—Subject to subsection (b), the Secretary of Defense, with respect to any plan contracted for under the authority of section 1079 or 1086 of this title, may waive, in whole or in part—

- (1) any limitation set out in the second sentence of section 1079(a) of this title; or
- (2) any requirement for payment by the patient under section 1079(b) or 1086(b) of this title.

(b) DETERMINATION AND REPORT.—(1) Subject to paragraph (3), the Secretary may waive a limitation or requirement as authorized by subsection (a) if the Secretary determines that during the period of the waiver such a plan will—

- (A) be less costly to the Government than a plan subject to such limitations or payment requirements; or
- (B) provide better services than those provided by a plan subject to such limitations or payment requirements at no additional cost to the Government.

(2) The Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report with respect to a waiver under paragraph (1), including a comparison of costs of and benefits available under—

- (A) a plan with respect to which the limitations and payment requirements are waived; and
- (B) a plan with respect to which there is no such waiver.

(3) A waiver under paragraph (1) may not take effect until the end of the 180-day period beginning on the date on which the Secretary submits the report required by paragraph (2) with respect to such waiver.

(Added P.L. 99–661, § 701(a)(1), Nov. 14, 1986, 100 Stat. 3895; amended P.L. 101–510, § 1484(h)(1), Nov. 5, 1990, 104 Stat. 1717; P.L. 104–106, § 1502(a)(1), Feb. 10, 1996, 110 Stat. 502; P.L. 106–65, § 1067(1), Oct. 5, 1999, 113 Stat. 774.)

§ 1099. Health care enrollment system

(a) ESTABLISHMENT OF SYSTEM.—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish a system of health care enrollment for covered beneficiaries who reside in the United States.

- (b) DESCRIPTION OF SYSTEM.—Such system shall—

(1) allow covered beneficiaries to elect a health care plan from eligible health care plans designated by the Secretary of Defense; or

(2) if necessary in order to ensure full use of facilities of the uniformed services in a geographical area, assign covered beneficiaries who reside in such area to such facilities.

(c) HEALTH CARE PLANS AVAILABLE UNDER SYSTEM.—A health care plan designated by the Secretary of Defense under the system described in subsection (a) shall provide all health care to which a covered beneficiary is entitled under this chapter. Such a plan may consist of any of the following:

(1) Use of facilities of the uniformed services.

(2) The Civilian Health and Medical Program of the Uniformed Services.

(3) Any other health care plan contracted for by the Secretary of Defense.

(4) Any combination of the plans described in paragraphs (1), (2), and (3).

(d) REGULATIONS.—The Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe regulations to carry out this section.

(Added P.L. 99-661, § 701(a)(1), Nov. 14, 1986, 100 Stat. 3896.)

§ 1100. Defense Health Program Account

(a) ESTABLISHMENT OF ACCOUNT.—(1) There is hereby established in the Department of Defense an account to be known as the “Defense Health Program Account”. All sums appropriated to carry out the functions of the Secretary of Defense with respect to medical and health care programs of the Department of Defense shall be appropriated to the account.

(2) Of the total amount appropriated for a fiscal year for programs and activities carried out under this chapter, the amount equal to three percent of such total amount shall remain available for obligation until the end of the following fiscal year.

(b) OBLIGATION OF AMOUNTS FROM ACCOUNT BY SECRETARY OF DEFENSE.—The Secretary of Defense may obligate or expend funds from the account for purposes of conducting programs and activities under this chapter, including contracts entered into under section 1079, 1086, 1092, or 1097 of this title, to the extent amounts are available in the account.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added P.L. 99-661, § 701(a), Nov. 14, 1986, 100 Stat. 3896; and amended P.L. 104-106, § 735(a)-(d)(1), Feb. 10, 1996, 110 Stat. 382.)

§ 1101. Resource allocation methods: capitation or diagnosis-related groups

(a) ESTABLISHMENT OF CAPITATION OR DRG METHOD.—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish by regulation the use of capitation or diagnosis-related groups as the primary criteria for allocation of resources to facilities of the uniformed services.

(b) EXCEPTION FOR MOBILIZATION MISSIONS.—Capitation or diagnosis-related groups shall not be used to allocate resources to the

facilities of the uniformed services to the extent that such resources are required by such facilities for mobilization missions.

(c) **CONTENT OF REGULATIONS.**—Such regulations may establish a system of diagnosis-related groups similar to the system established under section 1886(d)(4) of the Social Security Act (42 U.S.C. 1395ww(d)(4)). Such regulations may include the following:

(1) A classification of inpatient treatments by diagnosis-related groups and a similar classification of outpatient treatment.

(2) A methodology for classifying specific treatments within such groups.

(3) An appropriate weighting factor for each such diagnosis-related group which reflects the relative resources used by a facility of a uniformed service with respect to treatments classified within that group compared to treatments classified within other groups.

(4) An appropriate method for calculating or estimating the annual per capita costs of providing comprehensive health care services to members of the uniformed services on active duty and covered beneficiaries.

(Added P.L. 99-661, § 701(a), Nov. 14, 1986, 100 Stat. 3897; amended P.L. 100-456, § 1233(e), Sept. 29, 1988, 102 Stat. 2057; P.L. 103-160, § 714(a), (b)(1), Nov. 30, 1993, 107 Stat. 1690.)

§ 1102. Confidentiality of medical quality assurance records: qualified immunity for participants

(a) **CONFIDENTIALITY OF RECORDS.**—Medical quality assurance records created by or for the Department of Defense as part of a medical quality assurance program are confidential and privileged. Such records may not be disclosed to any person or entity, except as provided in subsection (c).

(b) **PROHIBITION ON DISCLOSURE AND TESTIMONY.**—(1) No part of any medical quality assurance record described in subsection (a) may be subject to discovery or admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (c).

(2) A person who reviews or creates medical quality assurance records for the Department of Defense or who participates in any proceeding that reviews or creates such records may not be permitted or required to testify in any judicial or administrative proceeding with respect to such records or with respect to any finding, recommendation, evaluation, opinion, or action taken by such person or body in connection with such records except as provided in this section.

(c) **AUTHORIZED DISCLOSURE AND TESTIMONY.**—(1) Subject to paragraph (2), a medical quality assurance record described in subsection (a) may be disclosed, and a person referred to in subsection (b) may give testimony in connection with such a record, only as follows:

(A) To a Federal executive agency or private organization, if such medical quality assurance record or testimony is needed by such agency or organization to perform licensing or accreditation functions related to Department of Defense health care facilities or to perform monitoring, required by law, of Department of Defense health care facilities.

(B) To an administrative or judicial proceeding commenced by a present or former Department of Defense health care provider concerning the termination, suspension, or limitation of clinical privileges of such health care provider.

(C) To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was a member or an employee of the Department of Defense.

(D) To a hospital, medical center, or other institution that provides health care services, if such medical quality assurance record or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was a member or employee of the Department of Defense and who has applied for or been granted authority or employment to provide health care services in or on behalf of such institution.

(E) To an officer, employee, or contractor of the Department of Defense who has a need for such record or testimony to perform official duties.

(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or testimony be provided for a purpose authorized by law.

(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of such proceeding.

(2) With the exception of the subject of a quality assurance action, the identity of any person receiving health care services from the Department of Defense or the identity of any other person associated with such department for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record described in subsection (a) shall be deleted from that record or document before any disclosure of such record is made outside the Department of Defense. Such requirement does not apply to the release of information pursuant to section 552a of title 5.

(d) DISCLOSURE FOR CERTAIN PURPOSES.—(1) Nothing in this section shall be construed as authorizing or requiring the withholding from any person or entity aggregate statistical information regarding the results of Department of Defense medical quality assurance programs.

(2) Nothing in this section shall be construed as authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the General Accounting Office if such record pertains to any matter within their respective jurisdictions.

(e) PROHIBITION ON DISCLOSURE OF RECORD OR TESTIMONY.—A person or entity having possession of or access to a record or testimony described by this section may not disclose the contents of

such record or testimony in any manner or for any purpose except as provided in this section.

(f) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—Medical quality assurance records described in subsection (a) may not be made available to any person under section 552 of title 5.

(g) LIMITATION ON CIVIL LIABILITY.—A person who participates in or provides information to a person or body that reviews or creates medical quality assurance records described in subsection (a) shall not be civilly liable for such participation or for providing such information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

(h) APPLICATION TO INFORMATION IN CERTAIN OTHER RECORDS.—Nothing in this section shall be construed as limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

(i) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement this section.

(j) DEFINITIONS.—In this section:

(1) The term “medical quality assurance program” means any activity carried out before, on, or after November 14, 1986 by or for the Department of Defense to assess the quality of medical care, including activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics), medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

(2) The term “medical quality assurance record” means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Department of Defense as part of a medical quality assurance program.

(3) The term “health care provider” means any military or civilian health care professional who, under regulations of a military department, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

(k) PENALTY.—Any person who willfully discloses a medical quality assurance record other than as provided in this section, knowing that such record is a medical quality assurance record, shall be fined not more than \$3,000 in the case of a first offense and not more than \$20,000 in the case of a subsequent offense.

(Added P.L. 99-661, § 705(a), Nov. 14, 1986, 100 Stat. 3902; amended P.L. 100-180, § 1231(5), Dec. 4, 1987, 101 Stat. 1160; P.L. 101-189, § 653(f), Nov. 29, 1989, 103 Stat. 1463.)

§ 1103. Contracts for medical and dental care: State and local preemption

(a) OCCURRENCE OF PREEMPTION.—A law or regulation of a State or local government relating to health insurance, prepaid health plans, or other health care delivery or financing methods shall not apply to any contract entered into pursuant to this chapter by the Secretary of Defense or the administering Secretaries to the extent that the Secretary of Defense or the administering Secretaries determine that—

(1) the State or local law or regulation is inconsistent with a specific provision of the contract or a regulation promulgated by the Secretary of Defense or the administering Secretaries pursuant to this chapter; or

(2) the preemption of the State or local law or regulation is necessary to implement or administer the provisions of the contract or to achieve any other important Federal interest.

(b) EFFECT OF PREEMPTION.—In the case of the preemption under subsection (a) of a State or local law or regulation regarding financial solvency, the Secretary of Defense or the administering Secretaries shall require an independent audit of the prime contractor of each contract that is entered into pursuant to this chapter and covered by the preemption. The audit shall be performed by the Defense Contract Audit Agency.

(c) STATE DEFINED.—In this section, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each Territory and possession of the United States.

(Added P.L. 100–180, § 725(a)(1), Dec. 4, 1987, 101 Stat. 1116; revised in its entirety P.L. 103–160, § 715(a), Nov. 30, 1993, 107 Stat. 1690.)

§ 1104. Sharing of health-care resources with the Department of Veterans Affairs

(a) SHARING OF HEALTH-CARE RESOURCES.—Health-care resources of the Department of Defense shall be shared with health-care resources of the Department of Veterans Affairs in accordance with section 8111 of title 38 or under section 1535 of title 31.

(b) REIMBURSEMENT FROM CHAMPUS FUNDS.—Pursuant to an agreement entered into under section 8111 of title 38 or section 1535 of title 31, the Secretary of a military department may reimburse the Secretary of Veterans Affairs from funds available for that military department for the payment of medical care provided under section 1079 or 1086 of this title.

(c) CHARGES.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided to covered beneficiaries under this chapter pursuant to an agreement entered into by the Secretary of a military department under section 8111 of title 38 or section 1535 of title 31.

(d) PROVISION OF SERVICES DURING WAR OR NATIONAL EMERGENCY.—Members of the armed forces on active duty during and immediately following a period of war, or during and immediately following a national emergency involving the use of the armed forces in armed conflict, may be provided health-care services by the Department of Veterans Affairs in accordance with section 8111A of title 38.

(Added P.L. 101–189, § 772(a), Nov. 29, 1989, 103 Stat. 1477; amended P.L. 102–484, § 1052(14), Oct. 23, 1992, 106 Stat. 2499; P.L. 103–35, § 201(c)(1), May 31, 1993, 107 Stat. 98; P.L. 107–314, § 721(b), Dec. 2, 2002, 116 Stat. 2595.)

§ 1105. Specialized treatment facility program

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may conduct a specialized treatment facility program pursuant to regulations prescribed by the Secretary of Defense. The Secretary shall consult with the other administering Secretaries in prescribing regulations for the program and in conducting the program.

(b) FACILITIES AUTHORIZED TO BE USED.—Under the specialized treatment facility program, the Secretary may designate health care facilities of the uniformed services and civilian health care facilities as specialized treatment facilities.

(c) WAIVER OF NONEMERGENCY HEALTH CARE RESTRICTION.—Under the specialized treatment facility program, the Secretary may waive, with regard to the provision of a particular service, the 40-mile radius restriction set forth in section 1079(a)(7) of this title if the Secretary determines that the use of a different geographical area restriction will result in a more cost-effective provision of the service.

(d) CIVILIAN FACILITY SERVICE AREA.—For purposes of the specialized treatment facility program, the service area of a civilian health care facility designated pursuant to subsection (b) shall be comparable in size to the service areas of facilities of the uniformed services.

(e) ISSUANCE OF NONAVAILABILITY OF HEALTH CARE STATEMENTS.—A covered beneficiary who resides within the service area of a specialized treatment facility designated under the specialized treatment facility program may be required to obtain a nonavailability of health care statement in the case of a specialized service offered by the facility in order for the covered beneficiary to receive the service outside of the program.

(f) PAYMENT OF COSTS RELATED TO CARE IN SPECIALIZED TREATMENT FACILITIES.—(1) Subject to paragraph (2), in connection with the treatment of a covered beneficiary under the specialized treatment facility program, the Secretary may provide the following benefits:

(A) Full or partial reimbursement of a member of the uniformed services for the reasonable expenses incurred by the member in transporting a covered beneficiary to or from a health care facility of the uniformed services or a civilian health care facility at which specialized health care services are provided pursuant to this chapter.

(B) Full or partial reimbursement of a person (including a member of the uniformed services) for the reasonable expenses of transportation, temporary lodging, and meals (not to exceed a per diem rate determined in accordance with implementing regulations) incurred by such person in accompanying a covered beneficiary as a nonmedical attendant to a health care facility referred to in subparagraph (A).

(C) In-kind transportation, lodging, or meals instead of reimbursements under subparagraph (A) or (B) for transportation, lodging, or meals, respectively.

(2) The Secretary may make reimbursements for or provide transportation, lodging, and meals under paragraph (1) in the case

of a covered beneficiary only if the total cost to the Department of Defense of doing so and of providing the health care in such case is less than the cost to the Department of providing the health care to the covered beneficiary by other means authorized under this chapter.

(g) COVERED BENEFICIARY DEFINED.—In this section, the term “covered beneficiary” means a person covered under section 1079 or 1086 of this title.

(Added P.L. 102–190, § 715(a), Dec. 5, 1991, 105 Stat. 1403; revised in its entirety P.L. 103–160, § 716(a)(1), Nov. 30, 1993, 107 Stat. 1690; amended P.L. 104–106, § 706, Feb. 10, 1996, 110 Stat. 373.)

§ 1106. Submittal of claims: standard form; time limits

(a) STANDARD FORM.—The Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe by regulation a standard form for the submission of claims for the payment of health care services provided under this chapter.

(b) TIME FOR SUBMISSION.—A claim for payment for services provided under this chapter shall be submitted as provided in such regulations not later than one year after the services are provided.

(Added P.L. 102–190, § 716(a)(1), Dec. 5, 1991, 105 Stat. 1403; revised in its entirety P.L. 105–85, § 738(a), Nov. 18, 1997, 111 Stat. 1815.)

§ 1107. Notice of use of an investigational new drug or a drug unapproved for its applied use

(a) NOTICE REQUIRED.—(1) Whenever the Secretary of Defense requests or requires a member of the armed forces to receive an investigational new drug or a drug unapproved for its applied use, the Secretary shall provide the member with notice containing the information specified in subsection (d).

(2) The Secretary shall also ensure that health care providers who administer an investigational new drug or a drug unapproved for its applied use, or who are likely to treat members who receive such a drug, receive the information required to be provided under paragraphs (3) and (4) of subsection (d).

(b) TIME OF NOTICE.—The notice required to be provided to a member under subsection (a)(1) shall be provided before the investigational new drug or drug unapproved for its applied use is first administered to the member.

(c) FORM OF NOTICE.—The notice required under subsection (a)(1) shall be provided in writing.

(d) CONTENT OF NOTICE.—The notice required under subsection (a)(1) shall include the following:

(1) Clear notice that the drug being administered is an investigational new drug or a drug unapproved for its applied use.

(2) The reasons why the investigational new drug or drug unapproved for its applied use is being administered.

(3) Information regarding the possible side effects of the investigational new drug or drug unapproved for its applied use, including any known side effects possible as a result of the interaction of such drug with other drugs or treatments being administered to the members receiving such drug.

(4) Such other information that, as a condition of authorizing the use of the investigational new drug or drug unap-

proved for its applied use, the Secretary of Health and Human Services may require to be disclosed.

(e) RECORDS OF USE.—The Secretary of Defense shall ensure that the medical records of members accurately document—

(1) the receipt by members of any investigational new drug or drug unapproved for its applied use; and

(2) the notice required by subsection (a)(1).

(f)⁵ LIMITATION AND WAIVER.—In the case of the administration of an investigational new drug or a drug unapproved for its applied use to a member of the armed forces in connection with the member's participation in a particular military operation, the requirement that the member provide prior consent to receive the drug in accordance with the prior consent requirement imposed under section 505(i)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)(4)) may be waived only by the President. The President may grant such a waiver only if the President determines, in writing, that obtaining consent—

(A) is not feasible;

(B) is contrary to the best interests of the member; or

(C) is not in the interests of national security.

(2) In making a determination to waive the prior consent requirement on a ground described in subparagraph (A) or (B) of paragraph (1), the President shall apply the standards and criteria that are set forth in the relevant FDA regulations for a waiver of the prior consent requirement on that ground.

(3) The Secretary of Defense may request the President to waive the prior consent requirement with respect to the administration of an investigational new drug or a drug unapproved for its applied use to a member of the armed forces in connection with the member's participation in a particular military operation. With respect to any such administration—

(A) the Secretary may not delegate to any other official the authority to request the President to waive the prior consent requirement for the Department of Defense; and

(B) if the President grants the requested waiver, the Secretary shall submit to the chairman and ranking minority member of each congressional defense committee a notification of the waiver, together with the written determination of the

⁵ Paragraphs (2) and (3) of section 731(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (P.L. 105–261; 112 Stat. 2071) provide:

(2) Subsection (f) of section 1107 of title 10, United States Code (as added by paragraph (1)), shall apply to the administration of an investigational new drug or a drug unapproved for its applied use to a member of the Armed Forces in connection with the member's participation in a particular military operation on or after [Oct. 17, 1998].

(3) A waiver of the requirement for prior consent imposed under the regulations required under paragraph (4) of section 505(i) of the Federal Food, Drug, and Cosmetic Act (or under any antecedent provision of law or regulations) that has been granted under that section (or antecedent provision of law or regulations) before [Oct. 17, 1998,] for the administration of a drug to a member of the Armed Forces in connection with the member's participation in a particular military operation may be applied in that case after that date only if—

(A) the Secretary of Defense personally determines that the waiver is justifiable on each ground on which the waiver was granted;

(B) the President concurs in that determination in writing; and

(C) the Secretary submits to the chairman and ranking minority member of each congressional committee referred to in section 1107(f)(4)(C) of title 10, United States Code (as added by paragraph (1))—

(i) a notification of the waiver;

(ii) the President's written concurrence; and

(iii) the Secretary's justification for the request or for the requirement under subsection 1107(a) of such title for the member to receive the drug covered by the waiver.

President under paragraph (1) and the Secretary's justification for the request or requirement under subsection (a) for the member to receive the drug covered by the waiver.

(4) In this subsection:

(A) The term "relevant FDA regulations" means the regulations promulgated under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)).

(B) The term "prior consent requirement" means the requirement included in the relevant FDA regulations pursuant to section 505(i)(4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)(4)).

(g) DEFINITIONS.—In this section:

(1) The term "investigational new drug" means a drug covered by section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)).

(2) The term "drug unapproved for its applied use" means a drug administered for a use not described in the approved labeling of the drug under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355).

(Added P.L. 105–85, § 766, Nov. 18, 1997, 111 Stat. 1827; amended P.L. 105–261, § 731(a)(1), (b), Oct. 17, 1998, 112 Stat. 2070, 2071; P.L. 106–65, § 1067(1), Oct. 5, 1999, 113 Stat. 774; P.L. 108–136, § 1043(b)(7), Nov. 24, 2003, 117 Stat. 1611.)

§ 1107a. Emergency use products⁶

(a) WAIVER BY THE PRESIDENT.—In the case of the administration of a product authorized for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act to members of the armed forces, the condition described in section 564(e)(1)(A)(ii)(III) of such Act and required under paragraph (1)(A) or (2)(A) of such section 564(e), designed to ensure that individuals are informed of an option to accept or refuse administration of a product, may be waived only by the President only if the President determines, in writing, that complying with such requirement is not feasible, is contrary to the best interests of the members affected, or is not in the interests of national security.

(b) PROVISION OF INFORMATION.—If the President, under subsection (a), waives the condition described in section 564(e)(1)(A)(ii)(III) of the Federal Food, Drug, and Cosmetic Act, and if the Secretary of Defense, in consultation with the Secretary of Health and Human Services, makes a determination that it is not feasible based on time limitations for the information described in section 564(e)(1)(A)(ii)(I) or (II) of such Act and required under paragraph (1)(A) or (2)(A) of such section 564(e), to be provided to a member of the armed forces prior to the administration of the product, such information shall be provided to such member of the armed forces (or next-of-kin in the case of the death of a member) to whom the product was administered as soon as possible, but not later than 30 days, after such administration. The authority provided for in this subsection may not be delegated. Information con-

⁶Section 1603 of the National Defense Authorization Act for Fiscal Year 2004 (P.L. 108–136, 117 Stat. 1684) added section 1107a. Subsection (d) of such section 1603 provides:

(d) TERMINATION.—This section shall not be in effect (and the law shall read as if this section were never enacted) as of the date on which, following enactment of the Project Bioshield Act of 2003, the President submits to Congress a notification that the Project Bioshield Act of 2003 provides an effective emergency use authority with respect to members of the Armed Forces.

cerning the administration of the product shall be recorded in the medical record of the member.

(c) **APPLICABILITY OF OTHER PROVISIONS.**—In the case of an authorization by the Secretary of Health and Human Services under section 564(a)(1) of the Federal Food, Drug, and Cosmetic Act based on a determination by the Secretary of Defense under section 564(b)(1)(B) of such Act, subsections (a) through (f) of section 1107 shall not apply to the use of a product that is the subject of such authorization, within the scope of such authorization and while such authorization is effective.

(Added P.L. 108–136, § 1603(b)(1), Nov. 24, 2003, 117 Stat. 1689.)

§ 1108. Health care coverage through Federal Employees Health Benefits program: demonstration project

(a) **FEHBP OPTION DEMONSTRATION.**—The Secretary of Defense, after consulting with the other administering Secretaries, shall enter into an agreement with the Office of Personnel Management to conduct a demonstration project (in this section referred to as the “demonstration project”) under which eligible beneficiaries described in subsection (b) and residing within one of the areas covered by the demonstration project may enroll in health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5. The number of eligible beneficiaries and family members of such beneficiaries under subsection (b)(2) who may be enrolled in health benefits plans during the enrollment period under subsection (d)(2) may not exceed 66,000.

(b) **ELIGIBLE BENEFICIARIES; COVERAGE.**—(1) An eligible beneficiary under this subsection is—

(A) a member or former member of the uniformed services described in section 1074(b) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

(B) an individual who is an unremarried former spouse of a member or former member described in section 1072(2)(F) or 1072(2)(G);

(C) an individual who is—

(i) a dependent of a deceased member or former member described in section 1076(b) or 1076(a)(2)(B) of this title or of a member who died while on active duty for a period of more than 30 days; and

(ii) a member of family as defined in section 8901(5) of title 5; or

(D) an individual who is—

(i) a dependent of a living member or former member described in section 1076(b)(1) of this title who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, regardless of the member’s or former member’s eligibility for such hospital insurance benefits; and

(ii) a member of family as defined in section 8901(5) of title 5.

(2) Eligible beneficiaries may enroll in a Federal Employees Health Benefit plan under chapter 89 of title 5 under this section for self-only coverage or for self and family coverage which includes

any dependent of the member or former member who is a family member for purposes of such chapter.

(3) A person eligible for coverage under this subsection shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5 (except as provided in paragraph (1)(C) or (1)(D)) as a condition for enrollment in health benefits plans offered through the Federal Employees Health Benefits program under the demonstration project.

(4) For purposes of determining whether an individual is a member of family under paragraph (5) of section 8901 of title 5 for purposes of paragraph (1)(C) or (1)(D), a member or former member described in section 1076(b) or 1076(a)(2)(B) of this title shall be deemed to be an employee under such section.

(5) An eligible beneficiary who is eligible to enroll in the Federal Employees Health Benefits program as an employee under chapter 89 of title 5 is not eligible to enroll in a Federal Employees Health Benefits plan under this section.

(c) AREA OF DEMONSTRATION PROJECT.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly identify and select the geographic areas in which the demonstration project will be conducted. The Secretary and the Director shall establish at least six, but not more than ten, such demonstration areas. In establishing the areas, the Secretary and Director shall include—

(1) an area that includes the catchment area of one or more military medical treatment facilities;

(2) an area that is not located in the catchment area of a military medical treatment facility;

(3) an area in which there is a Medicare Subvention Demonstration project area under section 1896 of title XVIII of the Social Security Act (42 U.S.C. 1395ggg); and

(4) not more than one area for each TRICARE region.

(d) DURATION OF DEMONSTRATION PROJECT.—(1) The Secretary of Defense shall conduct the demonstration project during three contract years under the Federal Employees Health Benefits program.

(2) Eligible beneficiaries shall, as provided under the agreement pursuant to subsection (a), be permitted to enroll in the demonstration project during an open enrollment period for the year 2000 (conducted in the fall of 1999). The demonstration project shall terminate on December 31, 2002.

(e) PROHIBITION AGAINST USE OF MTFs AND ENROLLMENT UNDER TRICARE.—Covered beneficiaries under this chapter who are provided coverage under the demonstration project shall not be eligible to receive care at a military medical treatment facility or to enroll in a health care plan under the TRICARE program.

(f) TERM OF ENROLLMENT IN PROJECT.—(1) Subject to paragraphs (2) and (3), the period of enrollment of an eligible beneficiary who enrolls in the demonstration project during the open enrollment period for the year 2000 shall be three years unless the beneficiary disenrolls before the termination of the project.

(2) A beneficiary who elects to enroll in the project, and who subsequently discontinues enrollment in the project before the end of the period described in paragraph (1), shall not be eligible to re-enroll in the project.

(3) An eligible beneficiary enrolled in a Federal Employees Health Benefits plan under this section may change health benefits plans and coverage in the same manner as any other Federal Employees Health Benefits program beneficiary may change such plans.

(g) EFFECT OF CANCELLATION.—The cancellation by an eligible beneficiary of coverage under the Federal Employee Health Benefits program shall be irrevocable during the term of the demonstration project.

(h) SEPARATE RISK POOLS; CHARGES.—(1) The Director of the Office of Personnel Management shall require health benefits plans under chapter 89 of title 5 that participate in the demonstration project to maintain a separate risk pool for purposes of establishing premium rates for eligible beneficiaries who enroll in such a plan in accordance with this section.

(2) The Director shall determine total subscription charges for self only or for family coverage for eligible beneficiaries who enroll in a health benefits plan under chapter 89 of title 5 in accordance with this section. The subscription charges shall include premium charges paid to the plan and amounts described in section 8906(c) of title 5 for administrative expenses and contingency reserves.

(i) GOVERNMENT CONTRIBUTIONS.—The Secretary of Defense shall be responsible for the Government contribution for an eligible beneficiary who enrolls in a health benefits plan under chapter 89 of title 5 in accordance with this section, except that the amount of the contribution may not exceed the amount of the Government contribution which would be payable if the electing beneficiary were an employee (as defined for purposes of such chapter) enrolled in the same health benefits plan and level of benefits.

(j) REPORT REQUIREMENTS.—(1) The Secretary of Defense and the Director of the Office of Personnel Management shall jointly submit to Congress two reports containing the information described in paragraph (2). The first report shall be submitted not later than the date that is 15 months after the date that the Secretary begins to implement the demonstration project. The second report shall be submitted not later than December 31, 2002.

(2) The reports required by paragraph (1) shall include the following:

(A) Information on the number of eligible beneficiaries who elect to participate in the demonstration project.

(B) An analysis of the percentage of eligible beneficiaries who participate in the demonstration project as compared to the percentage of covered beneficiaries under this chapter who elect to enroll in a health care plan under such chapter.

(C) Information on eligible beneficiaries who elect to participate in the demonstration project and did not have Medicare Part B coverage before electing to participate in the project.

(D) An analysis of the enrollment rates and cost of health services provided to eligible beneficiaries who elect to participate in the demonstration project as compared with similarly situated enrollees in the Federal Employees Health Benefits program under chapter 89 of title 5.

(E) An analysis of how the demonstration project affects the accessibility of health care in military medical treatment

facilities, and a description of any unintended effects on the treatment priorities in those facilities in the demonstration area.

(F) An analysis of any problems experienced by the Department of Defense in managing the demonstration project.

(G) A description of the effects of the demonstration project on medical readiness and training of the Armed Forces at military medical treatment facilities located in the demonstration area, and a description of the probable effects that making the project permanent would have on the medical readiness and training.

(H) An examination of the effects that the demonstration project, if made permanent, would be expected to have on the overall budget of the Department of Defense, the budget of the Office of Personnel Management, and the budgets of individual military medical treatment facilities.

(I) An analysis of whether the demonstration project affects the cost to the Department of Defense of prescription drugs or the accessibility, availability, and cost of such drugs to eligible beneficiaries.

(J) Any additional information that the Secretary of Defense or the Director of the Office of Personnel Management considers appropriate to assist Congress in determining the viability of expanding the project to all Medicare-eligible members of the uniformed services and their dependents.

(K) Recommendations on whether eligible beneficiaries—

(i) should be given more than one chance to enroll in the demonstration project under this section;

(ii) should be eligible to enroll in the project only during the first year following the date that the eligible beneficiary becomes eligible to receive hospital insurance benefits under part A of title XVIII of the Social Security Act; or

(iii) should be eligible to enroll in the project only during the 2-year period following the date on which the beneficiary first becomes eligible to enroll in the project.

(k) COMPTROLLER GENERAL REPORT.—Not later than December 31, 2002, the Comptroller General shall submit to Congress a report addressing the same matters required to be addressed under subsection (j)(2). The report shall describe any limitations with respect to the data contained in the report as a result of the size and design of the demonstration project.

(1) APPLICATION OF MEDIGAP PROTECTIONS TO DEMONSTRATION PROJECT ENROLLEES.—(1) Subject to paragraph (2), the provisions of section 1882(s)(3) (other than clauses (i) through (iv) of subparagraph (B)) and 1882(s)(4) of the Social Security Act shall apply to enrollment (and termination of enrollment) in the demonstration project under this section, in the same manner as they apply to enrollment (and termination of enrollment) with a Medicare+Choice organization in a Medicare+Choice plan.

(2) In applying paragraph (1)—

(A) any reference in clause (v) or (vi) of section 1882(s)(3)(B) of such Act to 12 months is deemed a reference to 36 months; and

(B) the notification required under section 1882(s)(3)(D) of such Act shall be provided in a manner specified by the Secretary of Defense in consultation with the Director of the Office of Personnel Management.

(Added P.L. 105-261, § 721(a), Oct. 17, 1998, 112 Stat. 2061.)

§ 1109. Organ and tissue donor program

(a) RESPONSIBILITIES OF THE SECRETARY OF DEFENSE.—The Secretary of Defense shall ensure that the advanced systems developed for recording armed forces members' personal data and information (such as the SMARTCARD, MEDITAG, and Personal Information Carrier) include the capability to record organ and tissue donation elections.

(b) RESPONSIBILITIES OF THE SECRETARIES OF THE MILITARY DEPARTMENTS.—The Secretaries of the military departments shall ensure that—

(1) appropriate information about organ and tissue donation is provided—

(A) to each officer candidate during initial training;

and

(B) to each recruit—

(i) after completion by the recruit of basic training; and

(ii) before arrival of the recruit at the first duty assignment of the recruit;

(2) members of the armed forces are given recurring, specific opportunities to elect to be organ or tissue donors during service in the armed forces and upon retirement; and

(3) members of the armed forces electing to be organ or tissue donors are encouraged to advise their next of kin concerning the donation decision and any subsequent change of that decision.

(c) RESPONSIBILITIES OF THE SURGEONS GENERAL OF THE MILITARY DEPARTMENTS.—The Surgeons General of the military departments shall ensure that—

(1) appropriate training is provided to enlisted and officer medical personnel to facilitate the effective operation of organ and tissue donation activities under garrison conditions and, to the extent possible, under operational conditions; and

(2) medical logistical activities can, to the extent possible without jeopardizing operational requirements, support an effective organ and tissue donation program.

(Added P.L. 105-261, § 741(b), Oct. 17, 1998, 112 Stat. 2073; amended P.L. 106-398, § 1[§ 1087(a)(8)], Oct. 30, 2000, 114 Stat. 1654, 1654A-290.)

§ 1110. Anthrax vaccine immunization program; procedures for exemptions and monitoring reactions

(a) PROCEDURES FOR MEDICAL AND ADMINISTRATIVE EXEMPTIONS.—(1) The Secretary of Defense shall establish uniform procedures under which members of the armed forces may be exempted from participating in the anthrax vaccine immunization program for either administrative or medical reasons.

(2) The Secretaries of the military departments shall provide for notification of all members of the armed forces of the procedures established pursuant to paragraph (1).

(b) SYSTEM FOR MONITORING ADVERSE REACTIONS.—(1) The Secretary shall establish a system for monitoring adverse reactions of members of the armed forces to the anthrax vaccine. That system shall include the following:

(A) Independent review of Vaccine Adverse Event Reporting System reports.

(B) Periodic surveys of personnel to whom the vaccine is administered.

(C) A continuing longitudinal study of a pre-identified group of members of the armed forces (including men and women and members from all services).

(D) Active surveillance of a sample of members to whom the anthrax vaccine has been administered that is sufficient to identify, at the earliest opportunity, any patterns of adverse reactions, the discovery of which might be delayed by reliance solely on the Vaccine Adverse Event Reporting System.

(2) The Secretary may extend or expand any ongoing or planned study or analysis of trends in adverse reactions of members of the armed forces to the anthrax vaccine in order to meet any of the requirements in paragraph (1).

(3) The Secretary shall establish guidelines under which members of the armed forces who are determined by an independent expert panel to be experiencing unexplained adverse reactions may obtain access to a Department of Defense Center of Excellence treatment facility for expedited treatment and follow up.

(Added P.L. 106-398, § 1[§ 751(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-193.)

CHAPTER 56—DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND

Sec.	
1111.	Establishment and purpose of Fund; definitions; authority to enter into agreements.
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§ 1111. Establishment and purpose of Fund; definitions; authority to enter into agreements

(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Medicare-Eligible Retiree Health Care Fund (hereinafter in this chapter referred to as the “Fund”), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance on an actuarially sound basis liabilities of the Department of Defense under uniformed services retiree health care programs for medicare-eligible beneficiaries.

(b) In this chapter:

(1) The term “uniformed services retiree health care programs” means the provisions of this title or any other provision of law creating an entitlement to or eligibility for health care for a member or former member of a participating uniformed service who is entitled to retired or retainer pay, and an eligible dependent under such program.

(2) The term “eligible dependent” means a dependent described in section 1076(a)(2) (other than a dependent of a member on active duty), 1076(b), 1086(c)(2), or 1086(c)(3) of this title.

(3) The term “medicare-eligible”, with respect to any person, means entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(4) The term “participating uniformed service” means the Army, Navy, Air Force, and Marine Corps, and any other uniformed service that is covered by an agreement entered into under subsection (c).

(c) The Secretary of Defense shall enter into an agreement with each other administering Secretary (as defined in section 1072(3) of this title) for participation in the Fund by a uniformed service under the jurisdiction of that Secretary. The agreement shall require that Secretary to determine contributions to the Fund on behalf of the members of the uniformed service under the jurisdiction of that Secretary in a manner comparable to the determination with respect to contributions to the Fund made by the Sec-

retary of Defense under section 1116 of this title, and such administering Secretary may make such contributions.¹

(Added P.L. 106-398, § 1[§ 713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-179; amended P.L. 107-107, §§ 711(a), (b)(1), (e)(1), (2), 1048(a)(12), Dec. 28, 2001, 115 Stat. 1164, 1165, 1166, 1223; P.L. 107-314, § 704(b), Dec. 2, 2002, 116 Stat. 2584.)

§ 1112. Assets of Fund

There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

- (1) Amounts paid into the Fund under section 1116 of this title.
- (2) Any amount appropriated to the Fund.
- (3) Any return on investment of the assets of the Fund.
- (4) Amounts paid into the Fund pursuant to section 1111(c) of this title.

(Added P.L. 106-398, § 1[§ 713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-180; amended P.L. 107-107, § 711(b)(2), Dec. 28, 2001, 115 Stat. 1165.)

§ 1113. Payments from the Fund

(a) There shall be paid from the Fund amounts payable for the costs of all uniformed service retiree health care programs for the benefit of members or former members of a participating uniformed service who are entitled to retired or retainer pay and are medicare eligible, and eligible dependents who are medicare eligible.

(b) The assets of the Fund are hereby made available for payments under subsection (a).

(c)(1) In carrying out subsection (a), the Secretary of Defense may transfer periodically from the Fund to applicable appropriations of the Department of Defense, or to applicable appropriations of other departments or agencies, such amounts as the Secretary determines necessary to cover the costs chargeable to those appropriations for uniformed service retiree health care programs for beneficiaries under those programs who are medicare-eligible. Such transfers may include amounts necessary for the administration of such programs. Amounts so transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred. Upon a determination that all or part of the funds transferred from the Fund are not necessary for the purposes for which transferred, such amounts may be transferred back to the Fund. This transfer authority is in addition to any other transfer authority that may be available to the Secretary.

(2) A transfer from the Fund under paragraph (1) may not be made to an appropriation after the end of the second fiscal year after the fiscal year that the appropriation is available for obligation. A transfer back to the Fund under paragraph (1) may not be made after the end of the second fiscal year after the fiscal year

¹The Department of the Interior and Related Agencies Appropriations Act, 2003 (division F of P.L. 108-3), provides, in a proviso in the paragraph in title II under the heading "Indian Health Services" (117 Stat. 261), the following:

That notwithstanding any other provision of law, contributions authorized by 10 U.S.C. 1111 for the Uniformed Service of the Public Health Service shall be paid in fiscal year 2003 and thereafter from the Department of Health and Human Services' Retirement Pay and Medical Benefits for Commissioned Officers account without charges billed to the Indian Health Service:

for which the appropriation to which the funds were originally transferred is available for obligation.

(d) The Secretary of Defense shall by regulation establish the method or methods for calculating amounts to be transferred under subsection (c). Such method or methods may be based (in whole or in part) on a proportionate share of the volume (measured as the Secretary determines appropriate) of health care services provided or paid for under uniformed service retiree health care programs for beneficiaries under those programs who are medicare-eligible in relation to the total volume of health care services provided or paid for under Department of Defense health care programs.

(e) The regulations prescribed by the Secretary under subsection (d) shall be provided to the Comptroller General not less than 60 days before such regulations become effective. The Comptroller General shall, not later than 30 days after receiving such regulations, report to the Secretary of Defense and Congress on the adequacy and appropriateness of the regulations.

(f) If the Secretary of Defense enters into an agreement with another administering Secretary pursuant to section 1111(c), the Secretary of Defense may take the actions described in subsections (c), (d), and (e) on behalf of the beneficiaries and programs of the other participating uniformed service.

(Added P.L. 106–398, § 1[§ 713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–180; amended P.L. 107–107, § 711(c), Dec. 28, 2001, 115 Stat. 1165.)

§ 1114. Board of Actuaries

(a)(1) There is established in the Department of Defense a Department of Defense Medicare-Eligible Retiree Health Care Board of Actuaries (hereinafter in this chapter referred to as the “Board”). The Board shall consist of three members who shall be appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries.

(2)(A) Except as provided in subparagraph (B), the members of the Board shall serve for a term of 15 years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which his predecessor was appointed shall only serve until the end of such term. A member may serve after the end of his term until his successor has taken office. A member of the Board may be removed by the Secretary of Defense for misconduct or failure to perform functions vested in the Board, and for no other reason.

(B) Of the members of the Board who are first appointed under this paragraph, one each shall be appointed for terms ending five, ten, and 15 years, respectively, after the date of appointment, as designated by the Secretary of Defense at the time of appointment.

(3) A member of the Board who is not otherwise an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay under the General Schedule of subchapter III of chapter 53 of title 5, for each day the member is engaged in the performance of duties vested in the Board, and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of title 5.

(b) The Board shall report to the Secretary of Defense annually on the actuarial status of the Fund and shall furnish its advice and opinion on matters referred to it by the Secretary.

(c) The Board shall review valuations of the Fund under section 1115(c) of this title and shall report periodically, not less than once every four years, to the President and Congress on the status of the Fund. The Board shall include in such reports recommendations for such changes as in the Board's judgment are necessary to protect the public interest and maintain the Fund on a sound actuarial basis.

(Added P.L. 106-398, § 1[§ 713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-180; amended P.L. 107-107, § 1048(a)(12), Dec. 28, 2001, 115 Stat. 1223.)

§ 1115. Determination of contributions to the Fund

(a) The Board shall determine the amount that is the present value (as of October 1, 2002) of future benefits payable from the Fund that are attributable to service in the participating uniformed services performed before October 1, 2002. That amount is the original unfunded liability of the Fund. The Board shall determine the period of time over which the original unfunded liability should be liquidated and shall determine an amortization schedule for the liquidation of such liability over that period. Contributions to the Fund for the liquidation of the original unfunded liability in accordance with such schedule shall be made as provided in section 1116(c) of this title.

(b)(1) The Secretary of Defense shall determine each year, in sufficient time for inclusion in budget requests for the following fiscal year, the total amount of Department of Defense contributions to be made to the Fund during that fiscal year under section 1116(a) of this title. That amount shall be the sum of the following:

(A) The product of—

(i) the current estimate of the value of the single level dollar amount to be determined under subsection (c)(1)(A) at the time of the next actuarial valuation under subsection (c); and

(ii) the expected average force strength during that fiscal year for members of the uniformed services under the jurisdiction of the Secretary of Defense on active duty (other than active duty for training) and full-time National Guard duty (other than full-time National Guard duty for training only).

(B) The product of—

(i) the current estimate of the value of the single level dollar amount to be determined under subsection (c)(1)(B) at the time of the next actuarial valuation under subsection (c); and

(ii) the expected average force strength during that fiscal year for members of the Ready Reserve of the uniformed services under the jurisdiction of the Secretary of Defense (other than members on full-time National Guard duty other than for training) who are not otherwise described in subparagraph (A)(ii).

(2) The amount determined under paragraph (1) for any fiscal year is the amount needed to be appropriated to the Department

of Defense (or to the other executive department having jurisdiction over the participating uniformed service) for that fiscal year for payments to be made to the Fund during that year under section 1116(a) of this title. The President shall include not less than the full amount so determined in the budget transmitted to Congress for that fiscal year under section 1105 of title 31. The President may comment and make recommendations concerning any such amount.

(c)(1) Not less often than every four years, the Secretary of Defense shall carry out an actuarial valuation of the Fund. Each such actuarial valuation shall include—

(A) a determination (using the aggregate entry-age normal cost method) of a single level dollar amount for members of the participating uniformed services on active duty (other than active duty for training) or full-time National Guard duty (other than full-time National Guard duty for training only); and

(B) a determination (using the aggregate entry-age normal cost method) of a single level dollar amount for members of the Ready Reserve of the participating uniformed services (other than members on full-time National Guard duty other than for training) who are not otherwise described by subparagraph (A).

Such single level dollar amounts shall be used for the purposes of subsection (b) and section 1116(a) of this title. The Secretary of Defense may determine a separate single level dollar amount under subparagraph (A) or (B) for any participating uniformed service, if, in the judgment of the Secretary, such a determination would produce a more accurate and appropriate actuarial valuation for that uniformed service.

(2) If at the time of any such valuation there has been a change in benefits under the uniformed services retiree health care programs for medicare-eligible beneficiaries that has been made since the last such valuation and such change in benefits increases or decreases the present value of amounts payable from the Fund, the Secretary of Defense shall determine an amortization methodology and schedule for the amortization of the cumulative unfunded liability (or actuarial gain to the Fund) created by such change and any previous such changes so that the present value of the sum of the amortization payments (or reductions in payments that would otherwise be made) equals the cumulative increase (or decrease) in the present value of such amounts.

(3) If at the time of any such valuation the Secretary of Defense determines that, based upon changes in actuarial assumptions since the last valuation, there has been an actuarial gain or loss to the Fund, the Secretary shall determine an amortization methodology and schedule for the amortization of the cumulative gain or loss to the Fund created by such change in assumptions and any previous such changes in assumptions through an increase or decrease in the payments that would otherwise be made to the Fund.

(4) If at the time of any such valuation the Secretary of Defense determines that, based upon the Fund's actuarial experience (other than resulting from changes in benefits or actuarial assumptions) since the last valuation, there has been an actuarial gain or loss to the Fund, the Secretary shall determine an amortization

methodology and schedule for the amortization of the cumulative gain or loss to the Fund created by such actuarial experience and any previous actuarial experience through an increase or decrease in the payments that would otherwise be made to the Fund.

(5) Contributions to the Fund in accordance with amortization schedules under paragraphs (2), (3), and (4) shall be made as provided in section 1116(c) of this title.

(d) All determinations under this section shall be made using methods and assumptions approved by the Board of Actuaries (including assumptions of interest rates and medical inflation) and in accordance with generally accepted actuarial principles and practices.

(e) The Secretary of Defense shall provide for the keeping of such records as are necessary for determining the actuarial status of the Fund.

(Added P.L. 106–398, § 1[§ 713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–181; amended P.L. 107–107, § 711(b)(3), (e)(1), Dec. 28, 2001, 115 Stat. 1165, 1166; P.L. 108–136, §§ 722(a), (c), 1045(a)(3), Nov. 24, 2003, 117 Stat. 1532, 1612.)

§ 1116. Payments into the Fund²

(a) The Secretary of Defense shall pay into the Fund at the end of each month as the Department of Defense contribution to the Fund for that month the amount that, subject to subsection (b), is the sum of the following:

(1) The product of—

(A) the monthly dollar amount determined using all the methods and assumptions approved for the most recent (as of the first day of the current fiscal year) actuarial valuation under section 1115(c)(1)(A) of this title (except that any statutory change in the uniformed services retiree health care programs for medicare-eligible beneficiaries that is effective after the date of that valuation and on or before the first day of the current fiscal year shall be used in such determination); and

(B) the total end strength for that month for members of the uniformed services under the jurisdiction of the Secretary of Defense on active duty (other than active duty for training) and full-time National Guard duty (other than full-time National Guard duty for training only).

(2) The product of—

(A) the level monthly dollar amount determined using all the methods and assumptions approved for the most recent (as of the first day of the current fiscal year) actuarial valuation under section 1115(c)(1)(B) of this title (except that any statutory change in the uniformed services retiree health care programs for medicare-eligible beneficiaries that is effective after the date of that valuation and on or before the first day of the current fiscal year shall be used in such determination); and

²The Department of the Interior and Related Agencies Appropriations Act, 2003 (division F of P.L. 108–3), provides, in a proviso in the paragraph in title II under the heading “Indian Health Services” (117 Stat. 261), the following:

That heretofore and hereafter the provisions of 10 U.S.C. 1116 shall not apply to the Indian Health Service:

(B) the total end strength for that month for members of the Ready Reserve of the uniformed services under the jurisdiction of the Secretary of Defense other than members on full-time National Guard duty (other than for training) who are not otherwise described in paragraph (1)(B).

(b) If an actuarial valuation referred to in paragraph (1) or (2) of subsection (a) has been calculated as a separate single level dollar amount for a participating uniformed service under section 1115(c)(1) of this title, the administering Secretary for the department in which such uniformed service is operating shall calculate the amount under such paragraph separately for such uniformed service. If the administering Secretary is not the Secretary of Defense, the administering Secretary shall notify the Secretary of Defense of the amount so calculated. To determine a single amount for the purpose of paragraph (1) or (2) of subsection (a), as the case may be, the Secretary of Defense shall aggregate the amount calculated under this subsection for a uniformed service for the purpose of such paragraph with the amount or amounts calculated (whether separately or otherwise) for the other uniformed services for the purpose of such paragraph.

(c)(1) At the beginning of each fiscal year the Secretary of the Treasury shall promptly pay into the Fund from the General Fund of the Treasury the amount certified to the Secretary by the Secretary of Defense under paragraph (3). Such payment shall be the contribution to the Fund for that fiscal year required by sections 1115(a) and 1115(c) of this title.

(2) At the beginning of each fiscal year the Secretary of Defense shall determine the sum of the following:

(A) The amount of the payment for that year under the amortization schedule determined by the Board of Actuaries under section 1115(a) of this title for the amortization of the original unfunded liability of the Fund.

(B) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(2) of this title for the amortization of any cumulative unfunded liability (or any gain) to the Fund resulting from changes in benefits.

(C) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(3) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial assumption changes.

(D) The amount (including any negative amount) for that year under the most recent amortization schedule determined by the Secretary of Defense under section 1115(c)(4) of this title for the amortization of any cumulative actuarial gain or loss to the Fund resulting from actuarial experience.

(3) The Secretary of Defense shall promptly certify the amount determined under paragraph (2) each year to the Secretary of the Treasury.

(d) Amounts paid into the Fund under subsection (a) shall be paid from funds available for the pay of members of the partici-

pating uniformed services under the jurisdiction of the respective administering Secretaries.

(Added P.L. 106–398, § 1[§ 713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–182; amended P.L. 107–107, §§ 711(b)(4), (d), (e)(1), 1048(a)(13), Dec. 28, 2001, 115 Stat. 1165, 1166, 1223; P.L. 107–314, § 704(a), Dec. 2, 2002, 116 Stat. 2584; P.L. 108–136, § 722(b), Nov. 24, 2003, 117 Stat. 1532.)

§ 1117. Investment of assets of Fund

The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary of Defense required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary of Defense, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Fund.

(Added P.L. 106–398, § 1[§ 713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–184.)

**CHAPTER 58—BENEFITS AND SERVICES FOR MEMBERS
BEING SEPARATED OR RECENTLY SEPARATED**

* * * * *

§ 1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs

(a) REQUIREMENT.—(1) Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual preseparation counseling of each member of the armed forces whose discharge or release from active duty is anticipated as of a specific date. A notation of the provision of such counseling with respect to each matter specified in subsection (b), signed by the member, shall be placed in the service record of each member receiving such counseling.

(2) In carrying out this section, the Secretary concerned may use the services available under section 1144 of this title.

(3)(A) In the case of an anticipated retirement, preseparation counseling shall commence as soon as possible during the 24-month period preceding the anticipated retirement date. In the case of a separation other than a retirement, preseparation counseling shall commence as soon as possible during the 12-month period preceding the anticipated date. Except as provided in subparagraph (B), in no event shall preseparation counseling commence later than 90 days before the date of discharge or release.

(B) In the event that a retirement or other separation is unanticipated until there are 90 or fewer days before the anticipated retirement or separation date, preseparation counseling shall begin as soon as possible within the remaining period of service.

(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide preseparation counseling to a member who is being discharged or released before the completion of that member's first 180 days of active duty.

(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.

(b) MATTERS TO BE COVERED BY COUNSELING.—Counseling under this section shall include the following:

(1) A discussion of the educational assistance benefits to which the member is entitled under the Montgomery GI Bill and other educational assistance programs because of the member's service in the armed forces.

(2) A description (to be developed with the assistance of the Secretary of Veterans Affairs) of the compensation and vocational rehabilitation benefits to which the member may be entitled under laws administered by the Secretary of Veterans Affairs, if the member is being medically separated or is being retired under chapter 61 of this title.

(3) An explanation of the procedures for and advantages of affiliating with the Selected Reserve.

(4) Information concerning Government and private-sector programs for job search and job placement assistance, including the public and community service jobs program carried out under section 1143a of this title, and information regarding the placement programs established under sections 1152 and 1153 of this title and the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9301 et seq.).

(5) If the member has a spouse, job placement counseling for the spouse.

(6) Information concerning the availability of relocation assistance services and other benefits and services available to persons leaving military service, as provided under section 1144 of this title.

(7) Information concerning the availability of medical and dental coverage following separation from active duty, including the opportunity to elect into the conversion health policy provided under section 1145 of this title.

(8) Counseling (for the member and dependents) on the effect of career change on individuals and their families.

(9) Financial planning assistance.

(10) The creation of a transition plan for the member to attempt to achieve the educational, training, and employment objectives of the member and, if the member has a spouse, the spouse of the member.

(c) TRANSMITTAL OF MEDICAL INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.—In the case of a member being medically separated or being retired under chapter 61 of this title, the Secretary concerned shall ensure (subject to the consent of the member) that a copy of the member's service medical record (including any results of a Physical Evaluation Board) is transmitted to the Secretary of Veterans Affairs within 60 days of the separation or retirement.

(Added P.L. 101-510, § 502(a)(1), Nov. 5, 1990, 104 Stat. 1552; amended P.L. 102-190, § 1061(a)(5), 105 Stat. 1472; P.L. 102-484, §§ 4401, 4441(b), 4462(b), Oct. 23, 1992, 106 Stat. 2701, 2730, 2740; P.L. 103-35, § 201(i)(1), May 31, 1993, 107 Stat. 100; P.L. 103-160, § 1332(c), Nov. 30, 1993, 107 Stat. 1797; P.L. 106-398, § 1[§ 1087(a)(9)], Oct. 30, 2000, 114 Stat. 1654, 1654A-290; P.L. 107-103, § 302(a), Dec. 27, 2001, 115 Stat. 991.)

* * * * *

§ 1145. Health benefits

(a) TRANSITIONAL HEALTH CARE.—(1) For the applicable time period described in paragraph (3), a member of the armed forces who is separated from active duty as described in paragraph (2) (and the dependents of the member) shall be entitled to receive—

(A) medical and dental care under section 1076 of this title in the same manner as a dependent described in subsection (a)(2) of such section; and

(B) health benefits contracted under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

(2) This subsection applies to the following members of the armed forces:

(A) A member who is involuntarily separated from active duty.

(B) A member of a reserve component who is separated from active duty to which called or ordered in support of a contingency operation if the active duty is active duty for a period of more than 30 days.

(C) A member who is separated from active duty for which the member is involuntarily retained under section 12305 of this title in support of a contingency operation.

(D) A member who is separated from active duty served pursuant to a voluntary agreement of the member to remain on active duty for a period of less than one year in support of a contingency operation.

(3)¹ Transitional health care shall be available under subsection (a) for a specified time period beginning on the date on which the member is separated as follows:

(A) For members separated with less than six years of active service, 60 days.

(B) For members separated with six or more years of active service, 120 days.

(b) CONVERSION HEALTH POLICIES.—(1) The Secretary of Defense shall inform each member referred to in subsection (a) before the date of the member's discharge or release from active duty of the availability for purchase by the member of a conversion health policy for the member and the dependents of that member. A conversion health policy offered under this paragraph shall provide coverage for not less than an 18-month period.²

(2) If a member referred to in subsection (a) purchases a conversion health policy during the period applicable to the member (or within a reasonable time after that period as prescribed by the Secretary of Defense), the Secretary shall provide health care, or pay the costs of health care provided, to the member and the dependents of the member—

(A) during the 18-month period beginning on the date on which coverage under the conversion health policy begins; and

¹ Section 704 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1527) provides:

SEC. 704. TEMPORARY EXTENSION OF TRANSITIONAL HEALTH CARE BENEFITS.

(a) EXTENSION.—Subject to subsection (b), and notwithstanding section 1117 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, during the period beginning on the date of the enactment of this Act [Nov. 24, 2003] and ending on December 31, 2004, section 1145(a) of title 10, United States Code, shall be administered by substituting for paragraph (3) the following:

“(3) Transitional health care for a member under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active duty.”

(b) EFFECTIVE DATE.—(1) Subsection (a) shall apply with respect to separations from active duty that take effect on or after the date of the enactment of this Act.

(2) Beginning on January 1, 2005, the period for which a member is provided transitional health care benefits under section 1145(a) of title 10, United States Code, shall be adjusted as necessary to comply with the limits provided under paragraph (3) of such section.

² Section 4408(c) of the National Defense Authorization Act for Fiscal Year 1993 (P.L. 102-484; 106 Stat. 2712) provides:

(c) TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES.—(1) No person may purchase a conversion health policy under section 1145(b) or 1086a of title 10, United States Code, on or after October 1, 1994. A person covered by such a conversion health policy on that date may cancel that policy and enroll in a health benefits plan under section 1078a of such title.

(2) No person may be covered concurrently by a conversion health policy under section 1145(b) or 1086a of such title and a health benefits plan under section 1078a of such title.

(B) for a condition (including pregnancy) that exists on such date and for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

(3) The Secretary of Defense may arrange for the provision of health care described in paragraph (2) through a contract with the insurer offering the conversion health policy.

(4) If the Secretary of Defense is unable, within a reasonable time, to enter into a contract with a private insurer to provide the conversion health policy required under paragraph (1) at a rate not to exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage, the Secretary shall offer such a policy under the Civilian Health and Medical Program of the Uniformed Services. Subject to paragraph (5), a member purchasing a policy from the Secretary shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the individual and Government contributions which would be required in the case of a person enrolled in a health benefits plan contracted for under section 1079 of this title; and

(B) an amount necessary for administrative expenses, but not to exceed two percent of the amount under subparagraph (A).

(5) The amount paid by a member who purchases a conversion health policy from the Secretary of Defense under paragraph (4) may not exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage.

(6) In order to reduce premiums required under paragraph (4), the Secretary of Defense may offer a conversion health policy that, with respect to mental health services, offers reduced coverage and increased cost-sharing by the purchaser.

(c) HEALTH CARE FOR CERTAIN SEPARATED MEMBERS NOT OTHERWISE ELIGIBLE.—(1) Consistent with the authority of the Secretary concerned to designate certain classes of persons as eligible to receive health care at a military medical facility, the Secretary concerned should consider authorizing, on an individual basis in cases of hardship, the provision of that care for a member who is separated from the armed forces, and is ineligible for transitional health care under subsection (a) or does not obtain a conversion health policy (or a dependent of the member).

(2) The Secretary concerned shall give special consideration to requests for such care in cases in which the condition for which treatment is required was incurred or aggravated by the member or the dependent before the date of the separation of the member, particularly if the condition is a result of the particular circumstances of the service of the member.

(d) DEFINITION.—In this section, the term “conversion health policy” means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and a private insurer, that is available for purchase by or for the use of a person who is no longer a member of the armed forces or a covered beneficiary.

(e) COAST GUARD.—The Secretary of Homeland Security shall implement this section for the members of the Coast Guard and their dependents.

(Added P.L. 101-510, § 502(a)(1), Nov. 5, 1990, 104 Stat. 1555; amended P.L. 102-484, § 4407(a), Oct. 23, 1992, 106 Stat. 2707; P.L. 103-160, § 561(i), Nov. 30, 1993, 107 Stat. 1668; P.L. 103-337, § 542(a)(4), Oct. 5, 1994, 108 Stat. 2768; P.L. 105-261, § 561(h), Oct. 17, 1998, 112 Stat. 2026; P.L. 106-398, § 1[§571(h)], Oct. 30, 2000, 114 Stat. 1654, 1654A-134; P.L. 107-107, § 736(a), (b), Dec. 28, 2001, 115 Stat. 1172; P.L. 107-296, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; P.L. 107-314, § 706(a), (b), Dec. 2, 2002, 116 Stat. 2585.)

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CHAPTER 59—SEPARATION

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§ 1178. System and procedures for tracking separations resulting from refusal to participate in anthrax vaccine immunization program

(a) **REQUIREMENT TO ESTABLISH SYSTEM.**—The Secretary of each military department shall establish a system for tracking, recording, and reporting separations of members of the armed forces under the Secretary’s jurisdiction that result from procedures initiated as a result of a refusal to participate in the anthrax vaccine immunization program.

(b) **REPORT.**—The Secretary of Defense shall consolidate the information recorded under the system described in subsection (a) and shall submit to the Committees on Armed Services of the Senate and the House of Representatives not later than April 1 of each year a report on such information. Each such report shall include a description of—

- (1) the number of members separated, categorized by military department, grade, and active-duty or reserve status; and
- (2) any other information determined appropriate by the Secretary.

(Added P.L. 106–398, § 1[§ 751(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–193.)

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**SELECTED HEALTH-RELATED PROVISIONS OF DEFENSE
AUTHORIZATION ACTS**

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

(P.L. 108–136, approved Nov. 24, 2003)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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Subtitle C—Planning, Programming, and Management

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**SEC. 723. [10 U.S.C. 1073 note] SURVEYS ON CONTINUED VIABILITY OF
TRICARE STANDARD.**

(a) REQUIREMENT FOR SURVEYS.—(1) The Secretary of Defense shall conduct surveys in the TRICARE market areas in the United States to determine how many health care providers are accepting new patients under TRICARE Standard in each such market area.

(2) The Secretary shall carry out the surveys in at least 20 TRICARE market areas in the United States each fiscal year after fiscal year 2003 until all such market areas in the United States have been surveyed. The Secretary shall complete six of the fiscal year 2004 surveys not later than March 31, 2004.

(3) In prioritizing the market areas for the sequence in which market areas are to be surveyed under this subsection, the Secretary shall consult with representatives of TRICARE beneficiaries and health care providers to identify locations where TRICARE Standard beneficiaries are experiencing significant levels of access-to-care problems under TRICARE Standard and shall give a high priority to surveying health care providers in such areas.

(b) SUPERVISION.—(1) The Secretary shall designate a senior official of the Department of Defense to take the actions necessary for achieving and maintaining participation of health care providers in TRICARE Standard in each TRICARE market area in a number that is adequate to ensure the viability of TRICARE Standard for TRICARE beneficiaries in that market area.

(2) The official designated under paragraph (1) shall have the following duties:

(A) To educate health care providers about TRICARE Standard.

(B) To encourage health care providers to accept patients under TRICARE Standard.

(C) To ensure that TRICARE beneficiaries have the information necessary to locate TRICARE Standard providers readily.

(D) To recommend adjustments in TRICARE Standard provider payment rates that the official considers necessary to ensure adequate availability of TRICARE Standard providers for TRICARE Standard beneficiaries.

(c) GAO REVIEW.—(1) The Comptroller General shall, on an ongoing basis, review—

(A) the processes, procedures, and analysis used by the Department of Defense to determine the adequacy of the number of health care providers—

(i) that currently accept TRICARE Standard beneficiaries as patients under TRICARE Standard in each TRICARE market area (as of the date of completion of the review); and

(ii) that would accept TRICARE Standard beneficiaries as new patients under TRICARE Standard in each TRICARE market area (within a reasonable time after the date of completion of the review); and

(B) the actions taken by the Department of Defense to ensure ready access of TRICARE Standard beneficiaries to health care under TRICARE Standard in each TRICARE market area.

(2)(A) The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the results of the review under paragraph (1). The first semiannual report shall be submitted not later than June 30, 2004.

(B) The semiannual report under subparagraph (A) shall include the following:

(i) An analysis of the adequacy of the surveys under subsection (a).

(ii) The adequacy of existing statutory authority to address inadequate levels of participation by health care providers in TRICARE Standard.

(iii) Identification of policy-based obstacles to achieving adequacy of availability of TRICARE Standard health care in the TRICARE market areas.

(iv) An assessment of the adequacy of Department of Defense education programs to inform health care providers about TRICARE Standard.

(v) An assessment of the adequacy of Department of Defense initiatives to encourage health care providers to accept patients under TRICARE Standard.

(vi) An assessment of the adequacy of information available to TRICARE Standard beneficiaries to facilitate access by such beneficiaries to health care under TRICARE Standard.

(vii) Any need for adjustment of health care provider payment rates to attract participation in TRICARE Standard by appropriate numbers of health care providers.

(d) DEFINITIONS.—In this section:

(1) The term “TRICARE Standard” means the option of the TRICARE program that is also known as the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of title 10, United States Code.

(2) The term “United States” means the United States (as defined in section 101(a) of title 10, United States Code), its possessions (as defined in such section), and the Commonwealth of Puerto Rico.

SEC. 724. [10 U.S.C. 1079 note] PLAN FOR PROVIDING HEALTH COVERAGE INFORMATION TO MEMBERS, FORMER MEMBERS, AND DEPENDENTS ELIGIBLE FOR CERTAIN HEALTH BENEFITS.

(a) **HEALTH INFORMATION PLAN REQUIRED.**—The Secretary of Defense shall develop a plan to—

(1) ensure that each household that includes one or more eligible persons is provided information concerning—

(A) the extent of health coverage provided by sections 1079 or 1086 of title 10, United States Code, for each such person;

(B) the costs, including the limits on such costs, that each such person is required to pay for such health coverage;

(C) sources of information for locating TRICARE-authorized providers in the household’s locality; and

(D) methods to obtain assistance in resolving difficulties encountered with billing, payments, eligibility, locating TRICARE-authorized providers, collection actions, and such other issues as the Secretary considers appropriate;

(2) provide mechanisms to ensure that each eligible person has access to information identifying TRICARE-authorized providers in the person’s locality who have agreed to accept new patients under section 1079 or 1086 of title 10, United States Code, and to ensure that such information is periodically updated;

(3) provide mechanisms to ensure that each eligible person who requests assistance in locating a TRICARE-authorized provider is provided such assistance;

(4) provide information and recruitment materials and programs aimed at attracting participation of health care providers as necessary to meet health care access requirements for all eligible persons; and

(5) provide mechanisms to allow for the periodic identification by the Department of Defense of the number and locality of eligible persons who may intend to rely on TRICARE-authorized providers for health care services.

(b) **IMPLEMENTATION OF PLAN.**—The Secretary of Defense shall implement the plan required by subsection (a) with respect to any contract entered into by the Department of Defense after May 31, 2003, for managed health care.

(c) **DEFINITIONS.**—In this section:

(1) The term “eligible person” means a person eligible for health benefits under section 1079 or 1086 of title 10, United States Code.

(2) The term “TRICARE-authorized provider” means a facility, doctor, or other provider of health care services—

(A) that meets the licensing and credentialing certification requirements in the State where the services are rendered;

(B) that meets requirements under regulations relating to TRICARE for the type of health care services rendered; and

(C) that has accepted reimbursement by the Secretary of Defense as payment for services rendered during the 12-month period preceding the date of the most recently updated provider information provided to households under the plan required by subsection (a).

(d) SUBMISSION OF PLAN.—Not later than March 31, 2004, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives the plan required by subsection (a), together with a schedule for implementation of the plan.

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SEC. 727. [38 U.S.C. 320 note] JOINT PROGRAM FOR DEVELOPMENT AND EVALUATION OF INTEGRATED HEALING CARE PRACTICES FOR MEMBERS OF THE ARMED FORCES AND VETERANS.

(a) PROGRAM.—The Secretary of Defense and the Secretary of Veterans Affairs may conduct a program to develop and evaluate integrated healing care practices for members of the Armed Forces and veterans. Any such program shall be carried out through the Department of Veterans Affairs-Department of Defense Joint Executive Committee established under section 320 of title 38, United States Code.

(b) SOURCE OF DOD FUNDS.—Amounts authorized to be appropriated by this Act for the Defense Health Program may be used for the program under subsection (a).

BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL
YEAR 2003

(P.L. 107-314, approved Dec. 2, 2002)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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Subtitle A—Health Care Program Improvements

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**SEC. 708. [10 U.S.C. 1071 note] ACCESS TO HEALTH CARE SERVICES
FOR BENEFICIARIES ELIGIBLE FOR TRICARE AND DE-
PARTMENT OF VETERANS AFFAIRS HEALTH CARE.**

(a) REQUIREMENT TO ESTABLISH PROCESS.—(1) The Secretary of Defense shall prescribe in regulations a process for resolving issues relating to patient safety and continuity of care for covered beneficiaries who are concurrently entitled to health care under the TRICARE program and eligible for health care services provided by the Department of Veterans Affairs. The Secretary shall—

(A) ensure that the process provides for coordination of, and access to, health care from the two sources in a manner that prevents diminution of access to health care from either source; and

(B) in consultation with the Secretary of Veterans Affairs, prescribe a clear definition of an “episode of care” for use in the resolution of patient safety and continuity of care issues under such process.

(2) Not later than May 1, 2003, the Secretary shall submit to the Committees on Armed Services of the Senate and of the House of Representatives a report describing the process prescribed under paragraph (1).

(3) While prescribing the process under paragraph (1) and upon completion of the report under paragraph (2), the Secretary shall provide to the Comptroller General information that would be relevant in carrying out the study required by subsection (b).

(b) COMPTROLLER GENERAL STUDY AND REPORT.—(1) The Comptroller General shall conduct a study of the health care issues of covered beneficiaries described in subsection (a). The study shall include the following:

(A) An analysis of whether covered beneficiaries who seek services through the Department of Veterans Affairs are re-

ceiving needed health care services in a timely manner from the Department of Veterans Affairs, as compared to the timeliness of the care available to covered beneficiaries under TRICARE Prime (as set forth in access to care standards under TRICARE program policy that are applicable to the care being sought).

(B) An evaluation of the quality of care for covered beneficiaries who do not receive needed services from the Department of Veterans Affairs within a time period that is comparable to the time period provided for under such access to care standards and who then must seek alternative care under the TRICARE program.

(C) Recommendations to improve access to, and timeliness and quality of, care for covered beneficiaries described in subsection (a).

(D) An evaluation of the feasibility and advisability of making access to care standards applicable jointly under the TRICARE program and the Department of Veterans Affairs health care system.

(E) A review of the process prescribed by the Secretary of Defense under subsection (a) to determine whether the process ensures the adequacy and quality of the health care services provided to covered beneficiaries under the TRICARE program and through the Department of Veterans Affairs, together with timeliness of access to such services and patient safety.

(2) Not later than 60 days after the congressional committees specified in subsection (a)(2) receive the report required under that subsection, the Comptroller General shall submit to those committees a report on the study conducted under this subsection.

(c) DEFINITIONS.—In this section:

(1) The term “covered beneficiary” has the meaning provided by section 1072(5) of title 10, United States Code.

(2) The term “TRICARE program” has the meaning provided by section 1072(7) of such title.

(3) The term “TRICARE Prime” has the meaning provided by section 1097a(f) of such title.

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Subtitle C—Department of Defense-Department of Veterans Affairs Health Resources Sharing

SEC. 721. REVISED COORDINATION AND SHARING GUIDELINES.

[Omitted (amended in its entirety 38 U.S.C. 8111)]

SEC. 722. [38 U.S.C. 8111 note] HEALTH CARE RESOURCES SHARING AND COORDINATION PROJECT.

(a) ESTABLISHMENT.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall conduct a health care resources sharing project to serve as a test for evaluating the feasibility, and the advantages and disadvantages, of measures and programs designed to improve the sharing and coordination of health care and health care resources between the Department of Veterans Affairs and the Department of Defense. The project shall be carried out, as a minimum, at the sites identified under subsection (b).

(2) Reimbursement between the two Departments with respect to the project under this section shall be made in accordance with

the provisions of section 8111(e)(2) of title 38, United States Code, as amended by section 721(a).

(b) **SITE IDENTIFICATION.**—(1) Not later than 90 days after the date of the enactment of this Act, the Secretaries shall jointly identify not less than three sites for the conduct of the project under this section.

(2) For purposes of this section, a site at which the resource sharing project shall be carried out is an area in the United States in which—

(A) one or more military treatment facilities and one or more VA health care facilities are situated in relative proximity to each other, including facilities engaged in joint ventures as of the date of the enactment of this Act; and

(B) for which an agreement to coordinate care and programs for patients at those facilities could be implemented not later than October 1, 2004.

(c) **CONDUCT OF PROJECT.**—(1) At sites at which the project is conducted, the Secretaries shall provide a test of a coordinated management system for the military treatment facilities and VA health care facilities participating in the project. Such a coordinated management system for a site shall include at least one of the elements specified in paragraph (2), and each of the elements specified in that paragraph must be included in the coordinated management system for at least one of the participating sites.

(2) Elements of a coordinated management system referred to in paragraph (1) are the following:

(A) A budget and financial management system for those facilities that—

(i) provides managers with information about the costs of providing health care by both Departments at the site; and

(ii) allows managers to assess the advantages and disadvantages (in terms of relative costs, benefits, and opportunities) of using resources of either Department to provide or enhance health care to beneficiaries of either Department.

(B) A coordinated staffing and assignment system for the personnel (including contract personnel) employed at or assigned to those facilities, including clinical practitioners of either Department.

(C) Medical information and information technology systems for those facilities that—

(i) are compatible with the purposes of the project;

(ii) communicate with medical information and information technology systems of corresponding elements of those facilities; and

(iii) incorporate minimum standards of information quality that are at least equivalent to those adopted for the Departments at large in their separate health care systems.

(d) **AUTHORITY TO WAIVE CERTAIN ADMINISTRATIVE POLICIES.**—(1)(A) In order to carry out subsection (c), the Secretary of Defense may, in the Secretary's discretion, waive any administrative policy of the Department of Defense otherwise applicable to that subsection that specifically conflicts with the purposes of the project,

in instances in which the Secretary determines that the waiver is necessary for the purposes of the project.

(B) In order to carry out subsection (c), the Secretary of Veterans Affairs may, in the Secretary's discretion, waive any administrative policy of the Department of Veterans Affairs otherwise applicable to that subsection that specifically conflicts with the purposes of the project, in instances in which the Secretary determines that the waiver is necessary for the purposes of the project.

(C) The two Secretaries shall establish procedures for resolving disputes that may arise from the effects of policy changes that are not covered by other agreements or existing procedures.

(2) No waiver under paragraph (1) may alter any labor-management agreement in effect as of the date of the enactment of this Act or adopted by either Department during the period of the project.

(e) USE BY DOD OF CERTAIN TITLE 38 PERSONNEL AUTHORITIES.—(1) In order to carry out subsection (c), the Secretary of Defense may apply to civilian personnel of the Department of Defense assigned to or employed at a military treatment facility participating in the project any of the provisions of subchapters I, III, and IV of chapter 74 of title 38, United States Code, determined appropriate by the Secretary.

(2) For purposes of paragraph (1), any reference in chapter 74 of title 38, United States Code—

(A) to the "Secretary" or the "Under Secretary for Health" shall be treated as referring to the Secretary of Defense; and

(B) to the "Veterans Health Administration" shall be treated as referring to the Department of Defense.

(f) FUNDING.—From amounts available for health care for a fiscal year, each Secretary shall make available to carry out the project not less than—

(1) \$3,000,000 for fiscal year 2003;

(2) \$6,000,000 for fiscal year 2004; and

(3) \$9,000,000 for each succeeding year during which the project is in effect.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "military treatment facility" means a medical facility under the jurisdiction of the Secretary of a military department.

(2) The term "VA health care facility" means a facility under the jurisdiction of the Veterans Health Administration of the Department of Veterans Affairs.

(h) PERFORMANCE REVIEW.—(1) The Comptroller General shall provide for an annual on-site review at each of the project locations selected by the Secretaries under this section.

(2) Not later than 90 days after completion of the annual review under paragraph (1), the Comptroller General shall submit a report on such review to the Committees on Armed Services and Veterans' Affairs of the Senate and House of Representatives.

(3) Each such report shall include the following:

(A) The strategic mission coordination between shared activities.

(B) The accuracy and validity of performance data used to evaluate sharing performance and changes in standards of care or services at the shared facilities.

(C) A statement that all appropriated funds designated for sharing activities are being used for direct support of sharing initiatives.

(D) Recommendations concerning continuance of the project at each site for the succeeding 12-month period.

(4) Whenever there is a recommendation under paragraph (3)(D) to discontinue a resource sharing project under this section, the two Secretaries shall act upon that recommendation as soon as practicable.

(5) In the initial report under this subsection, the Comptroller General shall validate the baseline information used for comparative analysis.

(i) TERMINATION.—(1) The project, and the authority provided by this section, shall terminate on September 30, 2007.

(2) The two Secretaries jointly may terminate the performance of the project at any site when the performance of the project at that site fails to meet performance expectations of the Secretaries, based on recommendations from the Comptroller General under subsection (h) or on other information available to the Secretaries to warrant such action.

SEC. 723. REPORT ON IMPROVED COORDINATION AND SHARING OF HEALTH CARE AND HEALTH CARE RESOURCES FOLLOWING DOMESTIC ACTS OF TERRORISM OR DOMESTIC USE OF WEAPONS OF MASS DESTRUCTION.

(a) JOINT REVIEW.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly review the adequacy of current processes and existing statutory authorities and policy governing the capability of the Department of Defense and the Department of Veterans Affairs to provide health care to members of the Armed Forces following domestic acts of terrorism or domestic use of weapons of mass destruction, both before and after any declaration of national emergency. Such review shall include a determination of the adequacy of current authorities in providing for the coordination and sharing of health care resources between the two Departments in such cases, particularly before the declaration of a national emergency.

(b) REPORT TO CONGRESS.—The two Secretaries shall include a joint report on the review under subsection (a), including any recommended legislative changes, shall be submitted to Congress as part of the fiscal year 2004 budget submission to Congress.

SEC. 724. [10 U.S.C. 1074g note] INTEROPERABILITY OF DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE PHARMACY DATA SYSTEMS.

(a) INTEROPERABILITY.—The Secretary of Veterans Affairs and the Secretary of Defense shall seek to ensure that on or before October 1, 2004, the Department of Veterans Affairs pharmacy data system and the Department of Defense pharmacy data system (known as the “Pharmacy Data Transaction System”) are interoperable for both Department of Defense beneficiaries and Department of Veterans Affairs beneficiaries by achieving real-time interface, data exchange, and checking of prescription drug data of outpatients, and using national standards for the exchange of outpatient medication information.

(b) ALTERNATIVE REQUIREMENT.—If the interoperability specified in subsection (a) is not achieved by October 1, 2004, as deter-

mined jointly by the Secretary of Defense and the Secretary of Veterans Affairs, the Secretary of Veterans Affairs shall adopt the Department of Defense Pharmacy Data Transaction System for use by the Department of Veterans Affairs health care system. Such system shall be fully operational not later than October 1, 2005.

(c) **IMPLEMENTATION FUNDING FOR ALTERNATIVE REQUIREMENT.**—The Secretary of Defense shall transfer to the Secretary of Veterans Affairs, or shall otherwise bear the cost of, an amount sufficient to cover three-fourths of the cost to the Department of Veterans Affairs for computer programming activities and relevant staff training expenses related to implementation of subsection (b). Such amount shall be determined in such manner as agreed to by the two Secretaries.

SEC. 725. [10 U.S.C. 1094a note] JOINT PILOT PROGRAM FOR PROVIDING GRADUATE MEDICAL EDUCATION AND TRAINING FOR PHYSICIANS.

(a) **IN GENERAL.**—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly carry out a pilot program under which graduate medical education and training is provided to military physicians and physician employees of the Department of Defense and the Department of Veterans Affairs through one or more programs carried out in military medical treatment facilities of the Department of Defense and medical centers of the Department of Veterans Affairs. The pilot program shall begin not later than January 1, 2003.

(b) **COST-SHARING AGREEMENT.**—The Secretaries shall enter into an agreement for carrying out the pilot program. The agreement shall establish means for each Secretary to assist in paying the costs, with respect to individuals under the jurisdiction of that Secretary, incurred by the other Secretary in providing medical education and training under the pilot program.

(c) **USE OF EXISTING AUTHORITIES.**—To carry out the pilot program, the Secretary of Defense and the Secretary of Veterans Affairs may use authorities provided to them under this subtitle, section 8111 of title 38, United States Code (as amended by section 721(a)), and other laws relating to the furnishing or support of medical education and the cooperative use of facilities.

(d) **TERMINATION OF PROGRAM.**—The pilot program under this section shall terminate on July 31, 2008.

(e) **REPEAL OF SUPERSEDED PROVISION.**—**[Omitted (repealed section 738 of P.L. 107-107)]**

SEC. 726. REPEAL OF CERTAIN LIMITS ON DEPARTMENT OF VETERANS AFFAIRS RESOURCES.

[Omitted (amended section 8110(a)(1) of title 38, U.S.C.)]

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002

(P.L. 107-107, approved Dec. 28, 2001)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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SEC. 734. [10 U.S.C. 1071 note] PILOT PROGRAM PROVIDING FOR DEPARTMENT OF VETERANS AFFAIRS SUPPORT IN THE PERFORMANCE OF SEPARATION PHYSICAL EXAMINATIONS.

(a) **AUTHORITY.**—The Secretary of Defense and the Secretary of Veterans Affairs may jointly carry out a pilot program under which the Secretary of Veterans Affairs may perform the physical examinations required for members of the uniformed services separating from the uniformed services who are in one or more geographic areas designated for the pilot program by the Secretaries.

(b) **REIMBURSEMENT.**—The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for the cost incurred by the Secretary of Veterans Affairs in performing, under the pilot program, the elements of physical examination that are required by the Secretary concerned in connection with the separation of a member of a uniformed service. Reimbursements shall be paid out of funds available for the performance of separation physical examinations of members of that uniformed service in facilities of the uniformed services.

(c) **AGREEMENT.**—(1) If the Secretary of Defense and the Secretary of Veterans Affairs carry out the pilot program authorized by this section, the Secretaries shall enter into an agreement specifying the geographic areas in which the pilot program is carried out and the means for making reimbursement payments under subsection (b).

(2) The other administering Secretaries shall also enter into the agreement to the extent that the Secretary of Defense determines necessary to apply the pilot program, including the requirement for reimbursement, to the uniformed services not under the jurisdiction of the Secretary of a military department.

(d) **CONSULTATION REQUIREMENT.**—In developing and carrying out the pilot program, the Secretary of Defense shall consult with the other administering Secretaries.

(e) **PERIOD OF PROGRAM.**—The Secretary of Defense and the Secretary of Veterans Affairs may carry out the pilot program under this section beginning not later than July 1, 2002, and terminating on December 31, 2005.

(f) REPORTS.—(1) If the Secretary of Defense and the Secretary of Veterans Affairs carry out the pilot program authorized by this section—

(A) not later than January 31, 2004, the Secretaries shall jointly submit to Congress an interim report on the conduct of the pilot program; and

(B) not later than March 1, 2005, the Secretaries shall jointly submit to Congress a final report on the conduct of the pilot program.

(2) Reports under this subsection shall include the Secretaries' assessment, as of the date of the report, of the efficacy of the performance of separation physical examinations as provided for under the pilot program.

(g) DEFINITIONS.—In this section:

(1) The term “administering Secretaries” has the meaning given that term in section 1072(3) of title 10, United States Code.

(2) The term “Secretary concerned” has the meaning given that term in section 101(5) of title 37, United States Code.

FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR
FISCAL YEAR 2001

(As enacted by P.L. 106-398, approved Oct. 30, 2000)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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**SEC. 702. [10 U.S.C. 1092 note] CHIROPRACTIC HEALTH CARE FOR
MEMBERS ON ACTIVE DUTY.¹**

(a) **PLAN REQUIRED.**—(1) Not later than March 31, 2001, the Secretary of Defense shall complete development of a plan to provide chiropractic health care services and benefits, as a permanent part of the Defense Health Program (including the TRICARE program), for all members of the uniformed services who are entitled to care under section 1074(a) of title 10, United States Code.

(2) The plan shall provide for the following:

(A) Access, at designated military medical treatment facilities, to the scope of chiropractic services as determined by the Secretary, which includes, at a minimum, care for neuro-musculoskeletal conditions typical among military personnel on active duty.

(B) A detailed analysis of the projected costs of fully integrating chiropractic health care services into the military health care system.

(C) An examination of the proposed military medical treatment facilities at which such services would be provided.

(D) An examination of the military readiness requirements for chiropractors who would provide such services.

(E) An examination of any other relevant factors that the Secretary considers appropriate.

(F) Phased-in implementation of the plan over a 5-year period, beginning on October 1, 2001.

(b) **CONSULTATION REQUIREMENTS.**—The Secretary of Defense shall consult with the other administering Secretaries described in

¹Section 711 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1530; 10 U.S.C. 1092 note) provides as follows:

SEC. 711. ACCELERATION OF IMPLEMENTATION OF CHIROPRACTIC HEALTH CARE FOR MEMBERS ON ACTIVE DUTY.

The Secretary of Defense shall accelerate the implementation of the plan required by section 702 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398; 114 Stat. 1654A-173) (relating to chiropractic health care services and benefits), with a goal of completing implementation of the plan by October 1, 2005.

section 1073 of title 10, United States Code, and the oversight advisory committee established under section 731 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 1092 note) regarding the following:

(1) The development and implementation of the plan required under subsection (a).

(2) Each report that the Secretary is required to submit to Congress regarding the plan.

(3) The selection of the military medical treatment facilities at which the chiropractic services described in subsection (a)(2)(A) are to be provided.

(c) CONTINUATION OF CURRENT SERVICES.—Until the plan required under subsection (a) is implemented, the Secretary shall continue to furnish the same level of chiropractic health care services and benefits under the Defense Health Program that is provided during fiscal year 2000 at military medical treatment facilities that provide such services and benefits.

(d) REPORT REQUIRED.—Not later than January 31, 2001, the Secretary of Defense shall submit a report on the plan required under subsection (a), together with appropriate appendices and attachments, to the Committees on Armed Services of the Senate and the House of Representatives.

(e) GAO REPORTS.—The Comptroller General shall monitor the development and implementation of the plan required under subsection (a), including the administration of services and benefits under the plan, and periodically submit to the committees referred to in subsection (d) written reports on such development and implementation.

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Subtitle C—TRICARE Program

SEC. 721. [10 U.S.C. 1073 note] IMPROVEMENT OF ACCESS TO HEALTH CARE UNDER THE TRICARE PROGRAM.

(a) WAIVER OF NONAVAILABILITY STATEMENT OR PREAUTHORIZATION.—In the case of a covered beneficiary under TRICARE Standard pursuant to chapter 55 of title 10, United States Code, the Secretary of Defense may not require with regard to authorized health care services (other than mental health services) under such chapter that the beneficiary—

(1) obtain a nonavailability statement or preauthorization from a military medical treatment facility in order to receive the services from a civilian provider; or

(2) obtain a nonavailability statement for care in specialized treatment facilities outside the 200-mile radius of a military medical treatment facility.

(b) WAIVER AUTHORITY.—The Secretary may waive the prohibition in subsection (a) if—

(1) the Secretary—

(A) demonstrates that significant costs would be avoided by performing specific procedures at the affected military medical treatment facility or facilities;

(B) determines that a specific procedure must be provided at the affected military medical treatment facility or

facilities to ensure the proficiency levels of the practitioners at the facility or facilities; or

(C) determines that the lack of nonavailability statement data would significantly interfere with TRICARE contract administration;

(2) the Secretary provides notification of the Secretary's intent to grant a waiver under this subsection to covered beneficiaries who receive care at the military medical treatment facility or facilities that will be affected by the decision to grant a waiver under this subsection;

(3) the Secretary notifies the Committees on Armed Services of the House of Representatives and the Senate of the Secretary's intent to grant a waiver under this subsection, the reason for the waiver, and the date that a nonavailability statement will be required; and

(4) 60 days have elapsed since the date of the notification described in paragraph (3).

(c) **WAIVER EXCEPTION FOR MATERNITY CARE.**—Subsection (b) shall not apply with respect to maternity care.

(d) **EFFECTIVE DATE.**—This section shall take effect on the earlier of the following:

(1) The date that a new contract entered into by the Secretary to provide health care services under TRICARE Standard takes effect.

(2) The date that is two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002.

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SEC. 723. [10 U.S.C. 1073 note] MODERNIZATION OF TRICARE BUSINESS PRACTICES AND INCREASE OF USE OF MILITARY TREATMENT FACILITIES.

(a) **REQUIREMENT TO IMPLEMENT INTERNET-BASED SYSTEM.**—Not later than October 1, 2001, the Secretary of Defense shall implement a system to simplify and make accessible through the use of the Internet, through commercially available systems and products, critical administrative processes within the military health care system and the TRICARE program. The purposes of the system shall be to enhance efficiency, improve service, and achieve commercially recognized standards of performance.

(b) **ELEMENTS OF SYSTEM.**—The system required by subsection (a)—

(1) shall comply with patient confidentiality and security requirements, and incorporate data requirements, that are currently widely used by insurers under medicare and commercial insurers;

(2) shall be designed to achieve improvements with respect to—

- (A) the availability and scheduling of appointments;
- (B) the filing, processing, and payment of claims;
- (C) marketing and information initiatives;
- (D) the continuation of enrollments without expiration;
- (E) the portability of enrollments nationwide;

(F) education of beneficiaries regarding the military health care system and the TRICARE program; and

(G) education of health care providers regarding such system and program; and

(3) may be implemented through a contractor under TRICARE Prime.

(c) **AREAS OF IMPLEMENTATION.**—The Secretary shall implement the system required by subsection (a) in at least one region under the TRICARE program.

(d) **PLAN FOR IMPROVED PORTABILITY OF BENEFITS.**—Not later than March 15, 2001, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan to provide portability and reciprocity of benefits for all enrollees under the TRICARE program throughout all TRICARE regions.

(e) **INCREASE OF USE OF MILITARY MEDICAL TREATMENT FACILITIES.**—The Secretary shall initiate a program to maximize the use of military medical treatment facilities by improving the efficiency of health care operations in such facilities.

(f) **DEFINITION.**—In this section the term “TRICARE program” has the meaning given such term in section 1072 of title 10, United States Code.

SEC. 724. [10 U.S.C. 1073 note] EXTENSION OF TRICARE MANAGED CARE SUPPORT CONTRACTS.

(a) **AUTHORITY.**—Notwithstanding any other provision of law and subject to subsection (b), any TRICARE managed care support contract in effect, or in the final stages of acquisition, on September 30, 1999, may be extended for four years.

(b) **CONDITIONS.**—Any extension of a contract under subsection (a)—

(1) may be made only if the Secretary of Defense determines that it is in the best interest of the United States to do so; and

(2) shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the Federal Government.

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SEC. 727. CLAIMS PROCESSING IMPROVEMENTS.

Beginning on the date of the enactment of this Act, the Secretary of Defense shall, to the maximum extent practicable, take all necessary actions to implement the following improvements with respect to processing of claims under the TRICARE program:

(1) Use of the TRICARE encounter data information system rather than the health care service record in maintaining information on covered beneficiaries under chapter 55 of title 10, United States Code.

(2) Elimination of all delays in payment of claims to health care providers that may result from the development of the health care service record or TRICARE encounter data information.

(3) Requiring all health care providers under the TRICARE program that the Secretary determines are high-volume providers to submit claims electronically.

(4) Processing 50 percent of all claims by health care providers and institutions under the TRICARE program by electronic means.

(5) Authorizing managed care support contractors under the TRICARE program to require providers to access information on the status of claims through the use of telephone automated voice response units.

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Subtitle D—Demonstration Projects

SEC. 731. [10 U.S.C. 1092 note] DEMONSTRATION PROJECT FOR EXPANDED ACCESS TO MENTAL HEALTH COUNSELORS.

(a) REQUIREMENT TO CONDUCT DEMONSTRATION PROJECT.—The Secretary of Defense shall conduct a demonstration project under which licensed and certified professional mental health counselors who meet eligibility requirements for participation as providers under the Civilian Health and Medical Program of the Uniformed Services (hereafter in this section referred to as “CHAMPUS”) or the TRICARE program may provide services to covered beneficiaries under chapter 55 of title 10, United States Code, without referral by physicians or adherence to supervision requirements.

(b) DURATION AND LOCATION OF PROJECT.—The Secretary shall conduct the demonstration project required by subsection (a)—

(1) during the 2-year period beginning October 1, 2001; and

(2) in one established TRICARE region.

(c) REGULATIONS.—The Secretary shall prescribe regulations regarding participation in the demonstration project required by subsection (a).

(d) PLAN FOR PROJECT.—Not later than March 31, 2001, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan to carry out the demonstration project. The plan shall include, but not be limited to, a description of the following:

(1) The TRICARE region in which the project will be conducted.

(2) The estimated funds required to carry out the demonstration project.

(3) The criteria for determining which professional mental health counselors will be authorized to participate under the demonstration project.

(4) The plan of action, including critical milestone dates, for carrying out the demonstration project.

(e) REPORT.—Not later than February 1, 2003, the Secretary shall submit to Congress a report on the demonstration project carried out under this section. The report shall include the following:

(1) A description of the extent to which expenditures for reimbursement of licensed or certified professional mental

health counselors change as a result of allowing the independent practice of such counselors.

(2) Data on utilization and reimbursement regarding non-physician mental health professionals other than licensed or certified professional mental health counselors under CHAMPUS and the TRICARE program.

(3) Data on utilization and reimbursement regarding physicians who make referrals to, and supervise, mental health counselors.

(4) A description of the administrative costs incurred as a result of the requirement for documentation of referral to mental health counselors and supervision activities for such counselors.

(5) For each of the categories described in paragraphs (1) through (4), a comparison of data for a 1-year period for the area in which the demonstration project is being implemented with corresponding data for a similar area in which the demonstration project is not being implemented.

(6) A description of the ways in which allowing for independent reimbursement of licensed or certified professional mental health counselors affects the confidentiality of mental health and substance abuse services for covered beneficiaries under CHAMPUS and the TRICARE program.

(7) A description of the effect, if any, of changing reimbursement policies on the health and treatment of covered beneficiaries under CHAMPUS and the TRICARE program, including a comparison of the treatment outcomes of covered beneficiaries who receive mental health services from licensed or certified professional mental health counselors acting under physician referral and supervision, other non-physician mental health providers recognized under CHAMPUS and the TRICARE program, and physicians, with treatment outcomes under the demonstration project allowing independent practice of professional counselors on the same basis as other non-physician mental health providers.

(8) The effect of policies of the Department of Defense on the willingness of licensed or certified professional mental health counselors to participate as health care providers in CHAMPUS and the TRICARE program.

(9) Any policy requests or recommendations regarding mental health counselors made by health care plans and managed care organizations participating in CHAMPUS or the TRICARE program.

SEC. 732. [10 U.S.C. 1092 note] TELERADIOLOGY DEMONSTRATION PROJECT.

(a) **AUTHORITY TO CONDUCT PROJECT.**—(1) The Secretary of Defense may conduct a demonstration project for the purposes of increasing efficiency of operations with respect to teleradiology at military medical treatment facilities, supporting remote clinics, and increasing coordination with respect to teleradiology between such facilities and clinics. Under the project, a military medical treatment facility and each clinic supported by such facility shall be linked by a digital radiology network through which digital radi-

ology X-rays may be sent electronically from clinics to the military medical treatment facility.

(2) The demonstration project may be conducted at several multispecialty tertiary-care military medical treatment facilities affiliated with a university medical school. One of such facilities shall be supported by at least 5 geographically dispersed remote clinics of the Departments of the Army, Navy, and Air Force, and clinics of the Department of Veterans Affairs and the Coast Guard. Another of such facilities shall be in an underserved rural geographic region served under established telemedicine contracts between the Department of Defense, the Department of Veterans Affairs, and a local university.

(b) DURATION OF PROJECT.—The Secretary shall conduct the project during the 2-year period beginning on the date of the enactment of this Act.

SEC. 733. [10 U.S.C. 1071 note] HEALTH CARE MANAGEMENT DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a demonstration program on health care management to explore opportunities for improving the planning, programming, budgeting systems, and management of the Department of Defense health care system.

(b) TEST MODELS.—Under the demonstration program, the Secretary shall test the use of the following planning and management models:

(1) A health care simulation model for studying alternative delivery policies, processes, organizations, and technologies.

(2) A health care simulation model for studying long term disease management.

(c) DEMONSTRATION SITES.—The Secretary shall test each model separately at one or more sites.

(d) PERIOD FOR PROGRAM.—The demonstration program shall begin not later than 180 days after the date of the enactment of this Act and shall terminate on December 31, 2003.

(e) REPORT.—The Secretary of Defense shall submit a report on the demonstration program to the Committees on Armed Services of the Senate and the House of Representatives not later than March 15, 2004. The report shall include the Secretary's assessment of the value of incorporating the use of the tested planning and management models throughout the planning, programming, budgeting systems, and management of the Department of Defense health care system.

(f) FUNDING.—Of the amount authorized to be appropriated under section 301(22), \$6,000,000 shall be available for the demonstration program under this section.

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Subtitle E—Joint Initiatives With Department of Veterans Affairs

SEC. 741. [38 U.S.C. 8111 note] VA-DOD SHARING AGREEMENTS FOR HEALTH SERVICES.

(a) PRIMACY OF SHARING AGREEMENTS.—The Secretary of Defense shall—

(1) give full force and effect to any agreement into which the Secretary or the Secretary of a military department entered under section 8111 of title 38, United States Code, or under section 1535 of title 31, United States Code, which was in effect on September 30, 1999; and

(2) ensure that the Secretary of the military department concerned directly reimburses the Secretary of Veterans Affairs for any services or resources provided under such agreement in accordance with the terms of such agreement, including terms providing for reimbursement from funds available for that military department.

(b) **MODIFICATION OR TERMINATION.**—Any agreement described in subsection (a) shall remain in effect in accordance with such subsection unless, during the 12-month period following the date of the enactment of this Act, such agreement is modified or terminated in accordance with the terms of such agreement.

SEC. 742. [10 U.S.C. 1071 note] PROCESSES FOR PATIENT SAFETY IN MILITARY AND VETERANS HEALTH CARE SYSTEMS.

(a) **ERROR TRACKING PROCESS.**—The Secretary of Defense shall implement a centralized process for reporting, compilation, and analysis of errors in the provision of health care under the defense health program that endanger patients beyond the normal risks associated with the care and treatment of such patients. To the extent practicable, that process shall emulate the system established by the Secretary of Veterans Affairs for reporting, compilation, and analysis of errors in the provision of health care under the Department of Veterans Affairs health care system that endanger patients beyond such risks.

(b) **SHARING OF INFORMATION.**—The Secretary of Defense and the Secretary of Veterans Affairs—

(1) shall share information regarding the designs of systems or protocols established to reduce errors in the provision of health care described in subsection (a); and

(2) shall develop such protocols as the Secretaries consider necessary for the establishment and administration of effective processes for the reporting, compilation, and analysis of such errors.

SEC. 743. [10 U.S.C. 1071 note] COOPERATION IN DEVELOPING PHARMACEUTICAL IDENTIFICATION TECHNOLOGY.

The Secretary of Defense and the Secretary of Veterans Affairs shall cooperate in developing systems for the use of bar codes for the identification of pharmaceuticals in the health care programs of the Department of Defense and the Department of Veterans Affairs. In any case in which a common pharmaceutical is used in such programs, the bar codes for those pharmaceuticals shall, to the maximum extent practicable, be identical.

Subtitle F—Other Matters

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SEC. 754. [10 U.S.C. 1071 note] PATIENT CARE REPORTING AND MANAGEMENT SYSTEM.

(a) **ESTABLISHMENT.**—The Secretary of Defense shall establish a patient care error reporting and management system.

(b) **PURPOSES OF SYSTEM.**—The purposes of the system are as follows:

(1) To study the occurrences of errors in the patient care provided under chapter 55 of title 10, United States Code.

(2) To identify the systemic factors that are associated with such occurrences.

(3) To provide for action to be taken to correct the identified systemic factors.

(c) **REQUIREMENTS FOR SYSTEM.**—The patient care error reporting and management system shall include the following:

(1) A hospital-level patient safety center, within the quality assurance department of each health care organization of the Department of Defense, to collect, assess, and report on the nature and frequency of errors related to patient care.

(2) For each health care organization of the Department of Defense and for the entire Defense health program, patient safety standards that are necessary for the development of a full understanding of patient safety issues in each such organization and the entire program, including the nature and types of errors and the systemic causes of the errors.

(3) Establishment of a Department of Defense Patient Safety Center within the Armed Forces Institute of Pathology, which shall have the following missions:

(A) To analyze information on patient care errors that is submitted to the Center by each military health care organization.

(B) To develop action plans for addressing patterns of patient care errors.

(C) To execute those action plans to mitigate and control errors in patient care with a goal of ensuring that the health care organizations of the Department of Defense provide highly reliable patient care with virtually no error.

(D) To provide, through the Assistant Secretary of Defense for Health Affairs, to the Agency for Healthcare Research and Quality of the Department of Health and Human Services any reports that the Assistant Secretary determines appropriate.

(E) To review and integrate processes for reducing errors associated with patient care and for enhancing patient safety.

(F) To contract with a qualified and objective external organization to manage the national patient safety database of the Department of Defense.

(d) **MEDTEAMS PROGRAM.**—The Secretary shall expand the health care team coordination program to integrate that program into all Department of Defense health care operations. In carrying out this subsection, the Secretary shall take the following actions:

(1) Establish not less than two Centers of Excellence for the development, validation, proliferation, and sustainment of the health care team coordination program, one of which shall support all fixed military health care organizations, the other of which shall support all combat casualty care organizations.

(2) Deploy the program to all fixed and combat casualty care organizations of each of the Armed Forces, at the rate of not less than 10 organizations in each fiscal year.

(3) Expand the scope of the health care team coordination program from a focus on emergency department care to a coverage that includes care in all major medical specialties, at the rate of not less than one specialty in each fiscal year.

(4) Continue research and development investments to improve communication, coordination, and team work in the provision of health care.

(e) CONSULTATION.—The Secretary shall consult with the other administering Secretaries (as defined in section 1072(3) of title 10, United States Code) in carrying out this section.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

(P.L. 106–65, approved Oct. 5, 1999)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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Subtitle A—Health Care Services

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SEC. 703. [10 U.S.C. 1077 note] PROVISION OF DOMICILIARY AND CUSTODIAL CARE FOR CERTAIN CHAMPUS BENEFICIARIES.

[Repealed by section 701(g)(1)(A) the National Defense Authorization Act for Fiscal Year 2002 (P.L. 107–107; 115 Stat. 1161)]

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SEC. 706. [10 U.S.C. 1074 note] HEALTH CARE AT FORMER UNIFORMED SERVICES TREATMENT FACILITIES FOR ACTIVE DUTY MEMBERS STATIONED AT CERTAIN REMOTE LOCATIONS.

(a) **AUTHORITY.**—Health care may be furnished by a designated provider pursuant to any contract entered into by the designated provider under section 722(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 1073 note) to eligible members who reside within the service area of the designated provider.

(b) **ELIGIBILITY.**—A member of the uniformed services (as defined in section 1072(1) of title 10, United States Code) is eligible for health care under subsection (a) if the member is a member described in section 731(c) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1811; 10 U.S.C. 1074 note).

(c) **APPLICABLE POLICIES.**—In furnishing health care to an eligible member under subsection (a), a designated provider shall adhere to the Department of Defense policies applicable to the furnishing of care under the TRICARE Prime Remote program, including coordinating with uniformed services medical authorities for hospitalizations and all referrals for specialty care.

(d) **REIMBURSEMENT RATES.**—The Secretary of Defense, in consultation with the designated providers, shall prescribe reimbursement rates for care furnished to eligible members under subsection (a). The rates prescribed for health care may not exceed the

amounts allowable under the TRICARE Standard plan for the same care.

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Subtitle C—Other Matters

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SEC. 723. [10 U.S.C. 1071 note] HEALTH CARE QUALITY INFORMATION AND TECHNOLOGY ENHANCEMENT.

(a) PURPOSE.—The purpose of this section is to ensure that the Department of Defense addresses issues of medical quality surveillance and implements solutions for those issues in a timely manner that is consistent with national policy and industry standards.

(b) DEPARTMENT OF DEFENSE PROGRAM FOR MEDICAL INFORMATICS AND DATA.—The Secretary of Defense shall establish a Department of Defense program, the purposes of which shall be the following:

- (1) To develop parameters for assessing the quality of health care information.
- (2) To develop the defense digital patient record.
- (3) To develop a repository for data on quality of health care.
- (4) To develop capability for conducting research on quality of health care.
- (5) To conduct research on matters of quality of health care.
- (6) To develop decision support tools for health care providers.
- (7) To refine medical performance report cards.
- (8) To conduct educational programs on medical informatics to meet identified needs.

(c) AUTOMATION AND CAPTURE OF CLINICAL DATA.—(1) Through the program established under subsection (b), the Secretary of Defense shall accelerate the efforts of the Department of Defense to automate, capture, and exchange controlled clinical data and present providers with clinical guidance using a personal information carrier, clinical lexicon, or digital patient record.

(2) The program shall serve as a primary resource for the Department of Defense for matters concerning the capture, processing, and dissemination of data on health care quality.

(d) MEDICAL INFORMATICS ADVISORY COMMITTEE.—(1) The Secretary of Defense shall establish a Medical Informatics Advisory Committee (hereinafter referred to as the “Committee”), the members of which shall be the following:

- (A) The Assistant Secretary of Defense for Health Affairs.
- (B) The Director of the TRICARE Management Activity of the Department of Defense.
- (C) The Surgeon General of the Army.
- (D) The Surgeon General of the Navy.
- (E) The Surgeon General of the Air Force.
- (F) Representatives of the Department of Veterans Affairs, designated by the Secretary of Veterans Affairs.

(G) Representatives of the Department of Health and Human Services, designated by the Secretary of Health and Human Services.

(H) Any additional members appointed by the Secretary of Defense to represent health care insurers and managed care organizations, academic health institutions, health care providers (including representatives of physicians and representatives of hospitals), and accreditors of health care plans and organizations.

(2) The primary mission of the Committee shall be to advise the Secretary on the development, deployment, and maintenance of health care informatics systems that allow for the collection, exchange, and processing of health care quality information for the Department of Defense in coordination with other Federal departments and agencies and with the private sector.

(3) Specific areas of responsibility of the Committee shall include advising the Secretary on the following:

(A) The ability of the medical informatics systems at the Department of Defense and Department of Veterans Affairs to monitor, evaluate, and improve the quality of care provided to beneficiaries.

(B) The coordination of key components of medical informatics systems, including digital patient records, both within the Federal Government and between the Federal Government and the private sector.

(C) The development of operational capabilities for executive information systems and clinical decision support systems within the Department of Defense and Department of Veterans Affairs.

(D) Standardization of processes used to collect, evaluate, and disseminate health care quality information.

(E) Refinement of methodologies by which the quality of health care provided within the Department of Defense and Department of Veterans Affairs is evaluated.

(F) Protecting the confidentiality of personal health information.

(4) The Assistant Secretary of Defense for Health Affairs shall consult with the Committee on the issues described in paragraph (3).

(5) The Secretary of Defense shall submit to Congress an annual report on medical informatics. The report shall include a discussion of the following matters:

(A) The activities of the Committee.

(B) The coordination of development, deployment, and maintenance of health care informatics systems within the Federal Government, and between the Federal Government and the private sector.

(C) The progress or growth occurring in medical informatics.

(D) How the TRICARE program and the Department of Veterans Affairs health care system can use the advancement of knowledge in medical informatics to raise the standards of health care and treatment and the expectations for improving health care and treatment.

(6) Members of the Committee shall not be paid by reason of their service on the Committee.

(7) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

(e) ANNUAL REPORT.—The Assistant Secretary of Defense for Health Affairs shall submit to Congress on an annual basis a report on the quality of health care furnished under the health care programs of the Department of Defense. The report shall cover the most recent fiscal year ending before the date the report is submitted and shall contain a discussion of the quality of the health care measured on the basis of each statistical and customer satisfaction factor that the Assistant Secretary determines appropriate, including, at a minimum, a discussion of the following:

- (1) Health outcomes.
- (2) The extent of use of health report cards.
- (3) The extent of use of standard clinical pathways.
- (4) The extent of use of innovative processes for surveillance.

SEC. 724. [10 U.S.C. 1092 note] JOINT TELEMEDICINE AND TELEPHARMACY DEMONSTRATION PROJECTS BY THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs may carry out joint demonstration projects for purposes of evaluating the feasibility and practicability of using telecommunications to provide health care services and pharmacy services.

(b) SERVICES TO BE PROVIDED.—The services provided under the demonstration projects may include the following:

- (1) Radiology and imaging services.
- (2) Diagnostic services.
- (3) Referral services.
- (4) Clinical pharmacy services.
- (5) Any other health care services or pharmacy services designated by the Secretaries.

(c) SELECTION OF LOCATIONS.—(1) The Secretaries may carry out the demonstration projects described in subsection (a) at not more than five locations selected by the Secretaries from locations in which are located both a uniformed services treatment facility and a Department of Veterans Affairs medical center that are affiliated with academic institutions having a demonstrated expertise in the provision of health care services or pharmacy services by means of telecommunications.

(2) Representatives of a facility and medical center selected under paragraph (1) shall, to the maximum extent practicable, carry out the demonstration project in consultation with representatives of the academic institution or institutions with which affiliated.

(d) PERIOD OF DEMONSTRATION PROJECTS.—The Secretaries may carry out the demonstration projects during the three-year period beginning on October 1, 1999.

(e) REPORT.—**[Repealed by section 1031(h) of P.L. 108-136]**

STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR
FISCAL YEAR 1999

(P.L. 105–261, approved Oct. 17, 1998)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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**Subtitle C—Health Care Services for Medicare-Eligible
Department of Defense Beneficiaries**

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**SEC. 722. [10 U.S.C. 1073 note] TRICARE AS SUPPLEMENT TO MEDICARE
DEMONSTRATION.**

(a) IN GENERAL.—(1) The Secretary of Defense shall, after consultation with the other administering Secretaries, carry out a demonstration project in order to assess the feasibility and advisability of providing medical care coverage under the TRICARE program to the individuals described in subsection (c). The demonstration project shall be known as the “TRICARE Senior Supplement”.

(2) The Secretary shall commence the demonstration project not later than January 1, 2000, and shall terminate the demonstration project not later than December 31, 2002.

(3) Under the demonstration project, the Secretary shall permit eligible individuals described in subsection (c) to enroll in the TRICARE program.

(4) Payment for care and services received by eligible individuals who enroll in the TRICARE program under the demonstration project shall be made as follows:

(A) First, under title XVIII of the Social Security Act, but only to the extent that payment for such care and services is provided for under that title.

(B) Second, under the TRICARE program, but only to the extent that payment for such care and services is provided under that program and is not provided for under subparagraph (A).

(C) Third, by the eligible individual concerned, but only to the extent that payment for such care and services is not provided for under subparagraph (A) or (B).

(5)(A) The Secretary shall require each eligible individual who enrolls in the TRICARE program under the demonstration project to pay an enrollment fee. The Secretary shall provide, to the extent

feasible, the option of payment of the enrollment fee through electronic transfers of funds and through withholding of such payment from the pay of a member or former member of the Armed Forces, and shall provide the option that payment of the enrollment fee be made in full at the beginning of the enrollment period or that payments be made on a monthly or quarterly basis.

(B) The amount of the enrollment fee charged an eligible individual under subparagraph (A) for self-only or family enrollment in any year may not exceed the amount equal to 75 percent of the total subscription charges in that year for self-only or family, respectively, fee-for-service coverage under the health benefits plan under the Federal Employees Health Benefits program under chapter 89 of title 5, United States Code, that is most similar in coverage to the TRICARE program.

(6) A covered beneficiary who enrolls in TRICARE Senior Supplement under this subsection shall not be eligible to receive health care at a facility of the uniformed services during the period such enrollment is in effect.

(b) EVALUATION; REVIEW.—(1) The Secretary shall provide for an evaluation of the demonstration project conducted under this subsection by an appropriate person or entity that is independent of the Department of Defense. The evaluation shall include the following:

(A) An analysis of the costs of the demonstration project to the United States and to the eligible individuals who participate in such demonstration project.

(B) An assessment of the extent to which the demonstration project satisfies the requirements of such eligible individuals for the health care services available under the demonstration project.

(C) An assessment of the effect, if any, of the demonstration project on military medical readiness.

(D) A description of the rate of the enrollment in the demonstration project of the individuals who were eligible to enroll in the demonstration project.

(E) An assessment of whether the demonstration project provides the most suitable model for a program to provide adequate health care services to the population of individuals consisting of the eligible individuals.

(F) An evaluation of any other matters that the Secretary considers appropriate.

(2) The Comptroller General shall review the evaluation conducted under paragraph (1). In carrying out the review, the Comptroller General shall—

(A) assess the validity of the processes used in the evaluation; and

(B) assess the validity of any findings under the evaluation, including any limitations with respect to the data contained in the evaluation as a result of the size and design of the demonstration project.

(3)(A) The Secretary shall submit a report on the results of the evaluation under paragraph (1), together with the evaluation, to the Committee on Armed Services of the Senate and the Com-

mittee on Armed Services of the House of Representatives not later than December 31, 2002.

(B) The Comptroller General shall submit a report on the results of the review under paragraph (2) to the committees referred to in subparagraph (A) not later than February 15, 2003.

(c) ELIGIBLE INDIVIDUALS.—An individual is eligible to participate under this section if the individual is a member or former member of the uniformed services described in section 1074(b) of title 10, United States Code, a dependent of the member described in section 1076(a)(2)(B) or 1076(b) of that title, or a dependent of a member of the uniformed services who died while on active duty for a period of more than 30 days, who—

(1) is 65 years of age or older;

(2) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

(3) is enrolled in the supplemental medical insurance program under part B of such title XVIII (42 U.S.C. 1395j et seq.); and

(4) resides in an area selected by the Secretary under subsection (d).

(d) AREAS OF IMPLEMENTATION.—(1) The Secretary shall carry out the demonstration project under this section in two separate areas selected by the Secretary.

(2) The areas selected by the Secretary under paragraph (1) shall be as follows:

(A) One area shall be an area outside the catchment area of a military medical treatment facility in which—

(i) no eligible organization has a contract in effect under section 1876 of the Social Security Act (42 U.S.C. 1395mm) and no Medicare+Choice organization has a contract in effect under part C of title XVIII of that Act (42 U.S.C. 1395w-21); or

(ii) the aggregate number of enrollees with an eligible organization with a contract in effect under section 1876 of that Act or with a Medicare+Choice organization with a contract in effect under part C of title XVIII of that Act is less than 2.5 percent of the total number of individuals in the area who are entitled to hospital insurance benefits under part A of title XVIII of that Act.

(B) The other area shall be an area outside the catchment area of a military medical treatment facility in which—

(i) at least one eligible organization has a contract in effect under section 1876 of that Act or one Medicare+Choice organization has a contract in effect under part C of title XVIII of that Act; and

(ii) the aggregate number of enrollees with an eligible organization with a contract in effect under section 1876 of that Act or with a Medicare+Choice organization with a contract in effect under part C of title XVIII of that Act exceeds 10 percent of the total number of individuals in the area who are entitled to hospital insurance benefits under part A of title XVIII of that Act.

(e) DEFINITIONS.—In this section:

(1) The term “administering Secretaries” has the meaning given that term in section 1072(3) of title 10, United States Code.

(2) The term “TRICARE program” has the meaning given that term in section 1072(7) of title 10, United States Code.

SEC. 723. [10 U.S.C. 1073 note] IMPLEMENTATION OF REDESIGN OF PHARMACY SYSTEM.

(a) **IN GENERAL.**—Not later than April 1, 2001, the Secretary of Defense shall implement, with respect to eligible individuals described in subsection (e), the redesign of the pharmacy system under TRICARE (including the mail-order and retail pharmacy benefit under TRICARE) to incorporate “best business practices” of the private sector in providing pharmaceuticals, as developed under the plan described in section 703.

(b) **PROGRAM REQUIREMENTS.**—The same coverage for pharmacy services and the same requirements for cost sharing and reimbursement as are applicable under section 1086 of title 10, United States Code, shall apply with respect to the program required by subsection (a).

(c) **EVALUATION.**—The Secretary shall provide for an evaluation of the implementation of the redesign of the pharmacy system under TRICARE under this section by an appropriate person or entity that is independent of the Department of Defense. The evaluation shall include the following:

(1) An analysis of the costs of the implementation of the redesign of the pharmacy system under TRICARE and to the eligible individuals who participate in the system.

(2) An assessment of the extent to which the implementation of such system satisfies the requirements of the eligible individuals for the health care services available under TRICARE.

(3) An assessment of the effect, if any, of the implementation of the system on military medical readiness.

(4) A description of the rate of the participation in the system of the individuals who were eligible to participate.

(5) An evaluation of any other matters that the Secretary considers appropriate.

(d) **REPORTS.**—The Secretary shall submit two reports on the results of the evaluation under subsection (c), together with the evaluation, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The first report shall be submitted not later than December 31, 2001, and the second report shall be submitted not later than December 31, 2003.

(e) **ELIGIBLE INDIVIDUALS.**—(1) An individual is eligible to participate under this section if the individual is a member or former member of the uniformed services described in section 1074(b) of title 10, United States Code, a dependent of the member described in section 1076(a)(2)(B) or 1076(b) of that title, or a dependent of a member of the uniformed services who died while on active duty for a period of more than 30 days, who—

(A) is 65 years of age or older;

(B) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.); and

(C) except as provided in paragraph (2), is enrolled in the supplemental medical insurance program under part B of such title XVIII (42 U.S.C. 1395j et seq.).

(2) Paragraph (1)(C) shall not apply in the case of an individual who, before April 1, 2001, has attained the age of 65 and did not enroll in the program described in such paragraph.

SEC. 724. [10 U.S.C. 1108 note] COMPREHENSIVE EVALUATION OF IMPLEMENTATION OF DEMONSTRATION PROJECTS AND TRICARE PHARMACY REDESIGN.

Not later than March 31, 2003, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report containing a comprehensive comparative analysis of the FEHBP demonstration project conducted under section 1108 of title 10, United States Code (as added by section 721), the TRICARE Senior Supplement under section 722, and the redesign of the TRICARE pharmacy system under section 723. The comprehensive analysis shall incorporate the findings of the evaluation submitted under section 723(c) and the report submitted under subsection (j) of such section 1108.

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SEC. 745. [10 U.S.C. 1071 note] JOINT DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS REPORTS RELATING TO INTERDEPARTMENTAL COOPERATION IN THE DELIVERY OF MEDICAL CARE.

(a) FINDINGS.—Congress makes the following findings:

(1) The military health care system of the Department of Defense and the Veterans Health Administration of the Department of Veterans Affairs are national institutions that collectively manage more than 1,500 hospitals, clinics, and health care facilities worldwide to provide services to more than 11,000,000 beneficiaries.

(2) In the post-Cold War era, these institutions are in a profound transition that involves challenging opportunities.

(3) During the period from 1988 to 1998, the number of military medical personnel has declined by 15 percent and the number of military hospitals has been reduced by one-third.

(4) During the 2 years since 1996, the Department of Veterans Affairs has revitalized its structure by decentralizing authority into 22 Veterans Integrated Service Networks.

(5) In the face of increasing costs of medical care, increased demands for health care services, and increasing budgetary constraints, the Department of Defense and the Department of Veterans Affairs have embarked on a variety of dynamic and innovative cooperative programs ranging from shared services to joint venture operations of medical facilities.

(6) In 1984, there was a combined total of 102 Department of Veterans Affairs and Department of Defense facilities with sharing agreements. By 1997, that number had grown to 420. During the six years from fiscal year 1992 through fiscal year 1997, shared services increased from slightly over 3,000 serv-

ices to more than 6,000 services, ranging from major medical and surgical services, laundry, blood, and laboratory services to unusual speciality care services.

(7) The Department of Defense and the Department of Veterans Affairs are conducting four health care joint ventures in New Mexico, Nevada, Texas, and Oklahoma, and are planning to conduct four more such ventures in Alaska, Florida, Hawaii, and California.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Department of Defense and the Department of Veterans Affairs should be commended for the cooperation between the two departments in the delivery of medical care, of which the cooperation involved in the establishment and operation of the Department of Defense and the Department of Veterans Affairs Executive Council is a praiseworthy example;

(2) the Department of Defense and the Department of Veterans Affairs are encouraged to continue to explore new opportunities to enhance the availability and delivery of medical care to beneficiaries by further enhancing the cooperative efforts of the departments; and

(3) enhanced cooperation between the Department of Defense and the Department of Veterans Affairs is encouraged regarding—

(A) the general areas of access to quality medical care, identification and elimination of impediments to enhanced cooperation, and joint research and program development; and

(B) the specific areas in which there is significant potential to achieve progress in cooperation in a short term, including computerization of patient records systems, participation of the Department of Veterans Affairs in the TRICARE program, pharmaceutical programs, and joint physical examinations.

(c) JOINT SURVEY OF POPULATIONS SERVED.—(1) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly conduct a survey of their respective medical care beneficiary populations to identify, by category of beneficiary (defined as the Secretaries consider appropriate), the expectations of, requirements for, and behavior patterns of the beneficiaries with respect to medical care. The two Secretaries shall develop the protocol for the survey jointly, but shall obtain the services of an entity independent of the Department of Defense and the Department of Veterans Affairs to carry out the survey.

(2) The survey shall include the following:

(A) Demographic characteristics, economic characteristics, and geographic location of beneficiary populations with regard to catchment or service areas.

(B) The types and frequency of care required by veterans, retirees, and dependents within catchment or service areas of Department of Defense and Department of Veterans Affairs medical facilities and outside those areas.

(C) The numbers of, characteristics of, and types of medical care needed by the veterans, retirees, and dependents who, though eligible for medical care in Department of Defense or

Department of Veterans Affairs treatment facilities or through other federally funded medical programs, choose not to seek medical care from those facilities or under those programs, and the reasons for that choice.

(D) The obstacles or disincentives for seeking medical care from such facilities or under such programs that are perceived by veterans, retirees, and dependents.

(E) Any other matters that the Secretary of Defense and the Secretary of Veterans Affairs consider appropriate for the survey.

(3) The Secretary of Defense or the Secretary of Veterans Affairs may waive the survey requirements under this subsection with respect to information that can be better obtained from a source other than the survey.

(4) The Secretary of Defense and the Secretary of Veterans Affairs shall submit a report on the results of the survey to the appropriate committees of Congress. The report shall contain the matters described in paragraph (2) and any proposals for legislation that the Secretaries recommend for enhancing Department of Defense and Department of Veterans Affairs cooperative efforts with respect to the delivery of medical care.

(d) REVIEW OF LAW AND POLICIES.—(1) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly conduct a review to identify impediments to cooperation between the Department of Defense and the Department of Veterans Affairs regarding the delivery of medical care. The matters reviewed shall include the following:

(A) All laws, policies, and regulations, and any attitudes of beneficiaries of the health care systems of the two departments, that have the effect of preventing the establishment, or limiting the effectiveness, of cooperative health care programs of the departments.

(B) The requirements and practices involved in the credentialing and licensure of health care providers.

(C) The perceptions of beneficiaries in a variety of categories (defined as the Secretaries consider appropriate) regarding the various Federal health care systems available for their use.

(D) The types and frequency of medical services furnished by the Department of Defense and the Department of Veterans Affairs through cooperative arrangements to each category of beneficiary (including active-duty members, retirees, dependents, veterans in the health-care eligibility categories referred to as Category A and Category C, and persons authorized to receive medical care under section 1713 of title 38, United States Code) of the other department.

(E) The extent to which health care facilities of the Department of Defense and Department of Veterans Affairs have sufficient capacity, or could jointly or individually create sufficient capacity, to provide services to beneficiaries of the other department without diminution of access or services to their primary beneficiaries.

(F) The extent to which the recruitment of scarce medical specialists and allied health personnel by the Department of

Defense and the Department of Veterans Affairs could be enhanced through cooperative arrangements for providing health care services.

(G) The obstacles and disincentives to providing health care services through cooperative arrangements between the Department of Defense and the Department of Veterans Affairs.

(2) The Secretaries shall jointly submit a report on the results of the review to the appropriate committees of Congress. The report shall include any proposals for legislation that the Secretaries recommend for eliminating or reducing impediments to interdepartmental cooperation that are identified during the review.

(e) PARTICIPATION IN TRICARE.—The Secretary of Defense shall review the TRICARE program to identify opportunities for increased participation by the Department of Veterans Affairs in that program. The ongoing collaboration between Department of Defense officials and Department of Veterans Affairs officials regarding increased participation shall be included among the matters reviewed.

(f) PHARMACEUTICAL BENEFITS AND PROGRAMS.—(1) The Department of Defense-Department of Veterans Affairs Federal Pharmacy Executive Steering Committee shall—

(A) undertake a comprehensive examination of existing pharmaceutical benefits and programs for beneficiaries of Department of Defense medical care programs, including matters relating to the purchasing, distribution, and dispensing of pharmaceuticals and the management of mail order pharmaceuticals programs; and

(B) review the existing methods for contracting for and distributing medical supplies and services.

(2) The committee shall submit a report on the results of the examination to the appropriate committees of Congress.

(g) STANDARDIZATION OF PHYSICAL EXAMINATIONS FOR DISABILITY.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a report on the status of the efforts of the Department of Defense and the Department of Veterans Affairs to standardize physical examinations administered by the two departments for the purpose of determining or rating disabilities.

(h) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—For the purposes of this section, the appropriate committees of Congress are as follows:

(1) The Committee on Armed Services and the Committee on Veterans' Affairs of the Senate.

(2) The Committee on Armed Services and the Committee on Veterans' Affairs of the House of Representatives.

(i) DEADLINES FOR SUBMISSION OF REPORTS.—(1) The report required by subsection (c)(3) shall be submitted not later than January 1, 2000.

(2) The report required by subsection (d)(2) shall be submitted not later than March 1, 1999.

(3) The semiannual report required by subsection (e)(2) shall be submitted not later than March 1 and September 1 of each year.

(4) The report on the examination required under subsection (f) shall be submitted not later than 60 days after the completion of the examination.

(5) The report required by subsection (g) shall be submitted not later than March 1, 1999.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

(P.L. 105–85, approved Nov. 18, 1997)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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**SEC. 731. [10 U.S.C. 1074 note] IMPROVEMENTS IN HEALTH CARE COV-
ERAGE AND ACCESS FOR MEMBERS ASSIGNED TO CER-
TAIN DUTY LOCATIONS FAR FROM SOURCES OF CARE.**

(a) [Omitted-Amendment]

(b) TEMPORARY AUTHORITY FOR MANAGED CARE EXPANSION TO MEMBERS ON ACTIVE DUTY AT CERTAIN REMOTE LOCATIONS.—(1) A member of the uniformed services¹ described in subsection (c) is entitled to receive care under the Civilian Health and Medical Program of the Uniformed Services. In connection with such care, the Secretary of Defense shall waive the obligation of the member to pay a deductible, copayment, or annual fee that would otherwise be applicable under that program for care provided to the members under the program. A dependent of the member, as described in subparagraph (A), (D), or (I) of section 1072(2) of title 10, United States Code, who is residing with the member shall have the same entitlement to care and to waiver of charges as the member.

(2) A member or dependent of the member, as the case may be, who is entitled under paragraph (1) to receive health care services under CHAMPUS shall receive such care from a network provider under the TRICARE program if such a provider is available in the service area of the member.

¹Subsection (a)(2) of section 722 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106–398; October 30, 2000; 114 Stat. 1654A–185) amended subsections (b), (c), and (d)(3) of section 731 by striking “Armed Forces” and inserting “uniformed services”. It also added a new paragraph (4) at the end of subsection (b) and a new paragraph (3) at the end of subsection (f). Subsection (b)(2) of such section 722 added the second sentence to subsection (b)(1) and made a conforming change in subsection (b)(2). However, subsection (c)(2) of such section 722 provides as follows:

(2) The amendments made by subsection (a)(2), with respect to members of the uniformed services, and the amendments made by subsection (b)(2), with respect to dependents of members, shall take effect on the date of the enactment of this Act and shall expire with respect to a member or the dependents of a member, respectively, on the later of the following:

(A) The date that is one year after the date of the enactment of this Act.

(B) The date on which the policies required by the amendments made by subsection (a)(1) or (b)(1) are implemented with respect to the coverage of medical care for and provision of such care to the member or dependents, respectively.

(3) Paragraph (1) shall take effect on the date of the enactment of this Act and shall expire with respect to a member upon the later of the following:²

(A) The date that is one year after the date of the enactment of this Act.

(B) The date on which the amendments made by subsection (a) apply with respect to the coverage of medical care for, and provision of such care to, the member.

(4) The Secretary of Defense shall consult with the other administering Secretaries in the administration of this subsection.

(c) ELIGIBLE MEMBERS.—A member referred to in subsection (b) is a member of the uniformed services on active duty who—

(1) receives a duty assignment described in subsection (d); and

(2) pursuant to the assignment of such duty, resides at a location that is more than 50 miles, or approximately one hour of driving time, from—

(A) the nearest health care facility of the uniformed services adequate to provide the needed care under chapter 55 of title 10, United States Code; and

(B) the nearest source of the needed care that is available to the member under the TRICARE Prime plan.

(d) DUTY ASSIGNMENTS COVERED.—A duty assignment referred to in subsection (c)(1) means any of the following:

(1) Permanent duty as a recruiter.

(2) Permanent duty at an educational institution to instruct, administer a program of instruction, or provide administrative services in support of a program of instruction for the Reserve Officers' Training Corps.

(3) Permanent duty as a full-time adviser to a unit of a reserve component of the uniformed services.

(4) Any other permanent duty designated by the Secretary concerned for purposes of this subsection.

(e) PAYMENT OF COSTS.—Deductibles, copayments, and annual fees not payable by a member by reason of a waiver granted under the regulations prescribed pursuant to subsection (b) shall be paid out of funds available to the Department of Defense for the Defense Health Program.

(f) DEFINITIONS.—In this section:

(1) The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

(2) The term "TRICARE Prime plan" means a plan under the TRICARE program that provides for the voluntary enrollment of persons for the receipt of health care services to be furnished in a manner similar to the manner in which health care services are furnished by health maintenance organizations.

²Subsection (c)(3) of section 722 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted by Public Law 106-398; 114 Stat. 1654A-186) provides that subsection (b)(3) does not apply with respect to "a member of the Coast Guard, the National Oceanic and Atmospheric Administration, or the Commissioned Corps of the Public Health Service, or to a dependent of a member of a uniformed service".

(3) The terms “uniformed services” and “administering Secretaries” have the meanings given those terms in section 1072 of title 10, United States Code.

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SEC. 743. AUTHORITY FOR AGREEMENT FOR USE OF MEDICAL RESOURCE FACILITY, ALAMOGORDO, NEW MEXICO.

(a) **AUTHORITY.**—(1) The Secretary of the Air Force may enter into an agreement with Gerald Champion Hospital, Alamogordo, New Mexico, under which the Secretary may furnish health care services to eligible individuals in a medical resource facility in Alamogordo, New Mexico, that is constructed and equipped, in part, using funds provided by the Secretary under the agreement.

(2) For purposes of this section:

(A) The term “eligible individual” means any individual eligible for medical and dental care under chapter 55 of title 10, United States Code, including any member of the uniformed services entitled to such care under section 1074(a) of that title.

(B) The terms “medical resource facility” and “facility” mean the medical resource facility to be constructed and equipped pursuant to the agreement authorized by paragraph (1).

(C) The term “Hospital” means Gerald Champion Hospital, Alamogordo, New Mexico.

(b) **CONTENT OF AGREEMENT.**—Any agreement entered into under subsection (a) shall specify, at a minimum, the following:

(1) The relationship between the Hospital and the Secretary of the Air Force in the provision of health care services to eligible individuals in the medical resource facility, including—

(A) whether or not the Secretary and the Hospital are to use and administer the facility jointly or independently; and

(B) under what circumstances the Hospital is to act as a provider of health care services under the managed care option of the TRICARE program known as TRICARE Prime.

(2) Matters relating to the administration of the agreement, including—

(A) the duration of the agreement;

(B) the rights and obligations of the Secretary and the Hospital under the agreement, including any contracting or grievance procedures applicable under the agreement;

(C) the types of care to be provided to eligible individuals under the agreement, including the cost to the Department of the Air Force of providing the care to eligible individuals during the term of the agreement;

(D) the access of Air Force medical personnel to the facility under the agreement;

(E) the rights and responsibilities of the Secretary and the Hospital upon termination of the agreement; and

(F) any other matters jointly identified by the Secretary and the Hospital.

(3) The nature of the arrangement between the Secretary and the Hospital with respect to the ownership of the facility and any property under the agreement, including—

(A) the nature of that arrangement while the agreement is in force;

(B) the nature of that arrangement upon termination of the agreement; and

(C) any requirement for reimbursement of the Secretary by the Hospital as a result of the arrangement upon termination of the agreement.

(4) The amount of the funds made available under subsection (c) that the Secretary will contribute for the construction and equipping of the facility.

(5) Any conditions or restrictions relating to the construction, equipping, or use of the facility.

(c) AVAILABILITY OF FUNDS FOR CONSTRUCTION AND EQUIPPING OF FACILITY.—(1) Of the amount authorized to be appropriated pursuant to section 301(4) for operation and maintenance for the Air Force, not more than \$7,000,000 may be used by the Secretary of the Air Force to make a contribution toward the construction and equipping of the medical resource facility in the event that the Secretary enters into the agreement authorized by subsection (a). Notwithstanding any other provision of law, the Secretary may not use other sources of funds to make a contribution toward the construction or equipping of the facility.

(2) Notwithstanding subsection (b)(3) regarding the ownership and reimbursement issues to be addressed in the agreement authorized by subsection (a), the Secretary may not contribute funds made available under paragraph (1) toward the construction and equipping of the facility unless the agreement requires, in exchange for the contribution, that the Hospital provide health care services to eligible individuals without charge to the Secretary or at a reduced rate. The value of the services provided by the Hospital shall be at least equal to the amount of the contribution made by the Secretary, and the Hospital shall complete the provision of services equal in value to the Secretary's contribution within seven years after the facility becomes operational. The provision of additional discounted services to be provided by the Hospital shall be included in the agreement. The value and types of services to be provided by the Hospital shall be negotiated in accordance with principles of resource-sharing agreements under the TRICARE program.

(d) NOTICE AND WAIT.—The Secretary of the Air Force may not enter into the agreement authorized by subsection (a) until 90 days after the Secretary of Defense submits to the congressional defense committees the report required by subsection (e).

(e) REPORT ON PROPOSED AGREEMENT.—The Secretary of Defense shall submit to Congress a report containing an analysis of, and recommendations regarding, the agreement proposed to be entered into under subsection (a), in particular, the implications of the agreement on regional health care costs and its effect on implementation of the TRICARE program in the region. The report shall also include a copy of the agreement, the results of a cost-benefit analysis conducted by the Secretary of the Air Force with respect

to the agreement, and such other information with respect to the agreement as the Secretary of Defense and the Secretary of the Air Force considers appropriate. The cost-benefit analysis shall consider the effects of the agreement on operation and maintenance and military construction requirements at Holloman Air Force Base, New Mexico.

(f) **SUBSEQUENT REPORTS.**—If the Secretary of the Air Force enters into the agreement authorized by subsection (a), the Secretary shall submit to Congress an annual report containing a revised cost-benefit analysis of the consequences of the agreement as in effect during the year covered by the report, including a full accounting of any cost savings realized by the Department of the Air Force as a result of the agreement. A report shall be submitted for each year in which the agreement is in effect or until the Hospital provides the full value of health care services required under subsection (c)(2), whichever occurs first.

SEC. 744. [10 U.S.C. 1073 note] DISCLOSURES OF CAUTIONARY INFORMATION ON PRESCRIPTION MEDICATIONS.

(a) **REGULATIONS REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the administering Secretaries referred to in section 1073 of title 10, United States Code, shall prescribe regulations to require each source described in subsection (d) that dispenses a prescription medication to a beneficiary under chapter 55 of such title to include with the medication the written cautionary information required by subsection (b).

(b) **INFORMATION TO BE DISCLOSED.**—Information required to be disclosed about a medication under the regulations shall include appropriate cautions about usage of the medication, including possible side effects and potentially hazardous interactions with foods.

(c) **FORM OF INFORMATION.**—The regulations shall require that information be furnished in a form that, to the maximum extent practicable, is easily read and understood.

(d) **COVERED SOURCES.**—The regulations shall apply to the following:

(1) Pharmacies and any other dispensers of prescription medications in medical facilities of the uniformed services.

(2) Sources of prescription medications under any mail order pharmaceuticals program provided by any of the administering Secretaries under chapter 55 of title 10, United States Code.

(3) Pharmacies paid under the Civilian Health and Medical Program of the Uniformed Services (including the TRICARE program).

(4) Pharmacies, and any other pharmaceutical dispensers, of designated providers referred to in section 721(5) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2593; 10 U.S.C. 1073 note).

SEC. 745. [10 U.S.C. 1073 note] COMPETITIVE PROCUREMENT OF CERTAIN OPHTHALMIC SERVICES.

(a) **COMPETITIVE PROCUREMENT REQUIRED.**—Beginning not later than October 1, 1998, the Secretary of Defense shall competitively procure from private-sector sources, or other sources outside

of the Department of Defense, all ophthalmic services related to the provision of single vision and multivision eyewear for members of the Armed Forces, retired members, and certain covered beneficiaries under chapter 55 of title 10, United States Code, who would otherwise receive such ophthalmic services through the Department of Defense.

(b) EXCEPTION.—Subsection (a) shall not apply to the extent that the Secretary of Defense determines that the use of sources within the Department of Defense to provide such ophthalmic services—

(1) is necessary to meet the readiness requirements of the Armed Forces; or

(2) is more cost effective.

(c) COMPLETION OF EXISTING ORDERS.—Subsection (a) shall not apply to orders for ophthalmic services received on or before September 30, 1998.

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TITLE X—GENERAL PROVISIONS

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SEC. 1078. [50 U.S.C. 1520a] RESTRICTIONS ON THE USE OF HUMAN SUBJECTS FOR TESTING OF CHEMICAL OR BIOLOGICAL AGENTS.

(a) PROHIBITED ACTIVITIES.—The Secretary of Defense may not conduct (directly or by contract)—

(1) any test or experiment involving the use of a chemical agent or biological agent on a civilian population; or

(2) any other testing of a chemical agent or biological agent on human subjects.

(b) EXCEPTIONS.—Subject to subsections (c), (d), and (e), the prohibition in subsection (a) does not apply to a test or experiment carried out for any of the following purposes:

(1) Any peaceful purpose that is related to a medical, therapeutic, pharmaceutical, agricultural, industrial, or research activity.

(2) Any purpose that is directly related to protection against toxic chemicals or biological weapons and agents.

(3) Any law enforcement purpose, including any purpose related to riot control.

(c) INFORMED CONSENT REQUIRED.—The Secretary of Defense may conduct a test or experiment described in subsection (b) only if informed consent to the testing was obtained from each human subject in advance of the testing on that subject.

(d) PRIOR NOTICE TO CONGRESS.—Not later than 30 days after the date of final approval within the Department of Defense of plans for any experiment or study to be conducted by the Department of Defense (whether directly or under contract) involving the use of human subjects for the testing of a chemical agent or a biological agent, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report setting forth a full accounting of those plans, and the experiment or study

may then be conducted only after the end of the 30-day period beginning on the date such report is received by those committees.

(e) BIOLOGICAL AGENT DEFINED.—In this section, the term “biological agent” means any micro-organism (including bacteria, viruses, fungi, rickettsiac, or protozoa), pathogen, or infectious substance, and any naturally occurring, bioengineered, or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, that is capable of causing—

(1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(2) deterioration of food, water, equipment, supplies, or materials of any kind; or

(3) deleterious alteration of the environment.

(f) REPORT AND CERTIFICATION.—[Omitted-Amendment]

(g) REPEAL OF SUPERSEDED PROVISION OF LAW.—[Omitted-Amendment]

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

(P.L. 104-201, approved Sept. 23, 1996)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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Subtitle C—Uniformed Services Treatment Facilities

SEC. 721. [10 U.S.C. 1073 note] DEFINITIONS.

In this subtitle:

(1) The term “administering Secretaries” means the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Health and Human Services.

(2) The term “agreement” means the agreement required under section 722(b) between the Secretary of Defense and a designated provider.

(3) The term “capitation payment” means an actuarially sound payment for a defined set of health care services that is established on a per enrollee per month basis.

(4) The term “covered beneficiary” means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

(5) The term “designated provider” means a public or non-profit private entity that was a transferee of a Public Health Service hospital or other station under section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 42 U.S.C. 248b) and that, before the date of the enactment of this Act, was deemed to be a facility of the uniformed services for the purposes of chapter 55 of title 10, United States Code. The term includes any legal successor in interest of the transferee.

(6) The term “enrollee” means a covered beneficiary who enrolls with a designated provider.

(7) The term “health care services” means the health care services provided under the health plan known as the “TRICARE PRIME” option under the TRICARE program.

(8) The term “Secretary” means the Secretary of Defense.

(9) The term “TRICARE program” means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially under-

write the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

SEC. 722. [10 U.S.C. 1073 note] INCLUSION OF DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.

(a) **INCLUSION IN SYSTEM.**—The health care delivery system of the uniformed services shall include the designated providers.

(b) **AGREEMENTS TO PROVIDE MANAGED HEALTH CARE SERVICES.**—(1) After consultation with the other administering Secretaries, the Secretary of Defense shall negotiate and enter into an agreement with each designated provider under which the designated provider will provide health care services in or through managed care plans to covered beneficiaries who enroll with the designated provider.

(2) The agreement shall be entered into on a sole source basis. The Federal Acquisition Regulation, except for those requirements regarding competition, issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall apply to the agreements as acquisitions of commercial items.

(3) The implementation of an agreement is subject to availability of funds for such purpose.

(c) **EFFECTIVE DATE OF AGREEMENTS.**—(1) Unless an earlier effective date is agreed upon by the Secretary and the designated provider, the agreement shall take effect upon the later of the following:

(A) The date on which a managed care support contract under the TRICARE program is implemented in the service area of the designated provider.

(B) October 1, 1997.

(2) The Secretary may modify the effective date established under paragraph (1) for an agreement to permit a transition period of not more than six months between the date on which the agreement is executed by the parties and the date on which the designated provider commences the delivery of health care services under the agreement.

(d) **TEMPORARY CONTINUATION OF EXISTING PARTICIPATION AGREEMENTS.**—The Secretary shall extend the participation agreement of a designated provider in effect immediately before the date of the enactment of this Act under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 42 U.S.C. 248c) until the agreement required by this section takes effect under subsection (c), including any transitional period provided by the Secretary under paragraph (2) of such subsection.

(e) **SERVICE AREA.**—The Secretary may not reduce the size of the service area of a designated provider below the size of the service area in effect as of September 30, 1996.

(f) **COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS.**—(1) Unless otherwise agreed upon by the Secretary and a designated provider, the designated provider shall comply with necessary and appropriate administrative requirements established by the Secretary for other providers of health care services and requirements established by the Secretary of Health and Human Services for risk-sharing contractors under section 1876 of the Social Security Act (42 U.S.C. 1395mm). The Secretary and the designated pro-

vider shall determine and apply only such administrative requirements as are minimally necessary and appropriate. A designated provider shall not be required to comply with a law or regulation of a State government requiring licensure as a health insurer or health maintenance organization.

(2) A designated provider may not contract out more than five percent of its primary care enrollment without the approval of the Secretary, except in the case of primary care contracts between a designated provider and a primary care contractor in force on the date of the enactment of this Act.

(g) CONTINUED ACQUISITION OF REDUCED-COST DRUGS.—A designated provider shall be treated as part of the Department of Defense for purposes of section 8126 of title 38, United States Code, in connection with the provision by the designated provider of health care services to covered beneficiaries pursuant to the participation agreement of the designated provider under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 42 U.S.C. 248c note) or pursuant to the agreement entered into under subsection (b).

SEC. 723. [10 U.S.C. 1073 note] PROVISION OF UNIFORM BENEFIT BY DESIGNATED PROVIDERS.

(a) UNIFORM BENEFIT REQUIRED.—A designated provider shall offer to enrollees the health benefit option prescribed and implemented by the Secretary under section 731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 1073 note), including accompanying cost-sharing requirements.

(b) TIME FOR IMPLEMENTATION OF BENEFIT.—A designated provider shall offer the health benefit option described in subsection (a) to enrollees upon the later of the following:

(1) The date on which health care services within the health care delivery system of the uniformed services are rendered through the TRICARE program in the region in which the designated provider operates.

(2) October 1, 1997.

(c) ADJUSTMENTS.—The Secretary may establish a later date under subsection (b)(2) or prescribe reduced cost-sharing requirements for enrollees.

SEC. 724. [10 U.S.C. 1073 note] ENROLLMENT OF COVERED BENEFICIARIES.

(a) FISCAL YEAR 1997 LIMITATION.—(1) During fiscal year 1997, the number of covered beneficiaries who are enrolled in managed care plans offered by designated providers may not exceed the number of such enrollees as of October 1, 1995.

(2) The Secretary may waive the limitation under paragraph (1) if the Secretary determines that additional enrollment authority for a designated provider is required to accommodate covered beneficiaries who are dependents of members of the uniformed services entitled to health care under section 1074(a) of title 10, United States Code.

(b) PERMANENT LIMITATION.—For each fiscal year beginning after September 30, 1997, the number of enrollees in managed care plans offered by designated providers may not exceed 110 percent

of the number of such enrollees as of the first day of the immediately preceding fiscal year. The Secretary may waive this limitation as provided in subsection (a)(2).

(c) RETENTION OF CURRENT ENROLLEES.—An enrollee in the managed care plan of a designated provider as of September 30, 1997, or such earlier date as the designated provider and the Secretary may agree upon, shall continue receiving services from the designated provider pursuant to the agreement entered into under section 722 unless the enrollee disenrolls from the designated provider. Except as provided in subsection (e), the administering Secretaries may not disenroll such an enrollee unless the disenrollment is agreed to by the Secretary and the designated provider.

(d) ADDITIONAL ENROLLMENT AUTHORITY.—(1) Subject to paragraph (2), other covered beneficiaries may also receive health care services from a designated provider.

(2)(A) The designated provider may market such services to, and enroll, covered beneficiaries who—

(i) do not have other primary health insurance coverage (other than Medicare coverage) covering basic primary care and inpatient and outpatient services;

(ii) subject to the limitation in subparagraph (B), have other primary health insurance coverage (other than Medicare coverage) covering basic primary care and inpatient and outpatient services; or

(iii) are enrolled in the direct care system under the TRICARE program, regardless of whether the covered beneficiaries were users of the health care delivery system of the uniformed services in prior years.

(B) For each fiscal year beginning after September 30, 2003, the number of covered beneficiaries newly enrolled by designated providers pursuant to clause (ii) of subparagraph (A) during such fiscal year may not exceed 10 percent of the total number of the covered beneficiaries who are newly enrolled under such subparagraph during such fiscal year.

(3) For purposes of this subsection, a covered beneficiary who has other primary health insurance coverage includes any covered beneficiary who has primary health insurance coverage—

(A) on the date of enrollment with a designated provider pursuant to paragraph (2)(A)(i); or

(B) on such date of enrollment and during the period after such date while the beneficiary is enrolled with the designated provider.

(e) SPECIAL RULE FOR MEDICARE-ELIGIBLE BENEFICIARIES.—If a covered beneficiary who desires to enroll in the managed care program of a designated provider is also entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), the covered beneficiary shall elect whether to receive health care services as an enrollee or under part A of title XVIII of the Social Security Act. The Secretary may disenroll an enrollee who subsequently violates the election made under this subsection and receives benefits under part A of title XVIII of the Social Security Act.

(f) INFORMATION REGARDING ELIGIBLE COVERED BENEFICIARIES.—The Secretary shall provide, in a timely manner, a designated provider with an accurate list of covered beneficiaries within the marketing area of the designated provider to whom the designated provider may offer enrollment.

(g) OPEN ENROLLMENT DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program under which covered beneficiaries shall be permitted to enroll at any time in a managed care plan offered by a designated provider consistent with the enrollment requirements for the TRICARE Prime option under the TRICARE program, but without regard to the limitation in subsection (b). The demonstration program under this subsection shall cover designated providers, selected by the Secretary of Defense, and the service areas of the designated providers.

(2) The demonstration program carried out under this section shall commence on October 1, 1999, and end on September 30, 2001.

(3) Not later than March 15, 2001, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the demonstration program carried out under this subsection. The report shall include, at a minimum, an evaluation of the benefits of the open enrollment opportunity to covered beneficiaries and a recommendation on whether to authorize open enrollments in the managed care plans of designated providers permanently.

SEC. 725. [10 U.S.C. 1073 note] APPLICATION OF CHAMPUS PAYMENT RULES.

(a) APPLICATION OF PAYMENT RULES.—Subject to subsection (b), the Secretary shall require a private facility or health care provider that is a health care provider under the Civilian Health and Medical Program of the Uniformed Services to apply the payment rules described in section 1074(c) of title 10, United States Code, in imposing charges for health care that the private facility or provider provides to enrollees of a designated provider.

(b) AUTHORIZED ADJUSTMENTS.—The payment rules imposed under subsection (a) shall be subject to such modifications as the Secretary considers appropriate. The Secretary may authorize a lower rate than the maximum rate that would otherwise apply under subsection (a) if the lower rate is agreed to by the designated provider and the private facility or health care provider.

(c) REGULATIONS.—The Secretary shall prescribe regulations to implement this section after consultation with the other administering Secretaries.

(d) CONFORMING AMENDMENT.—Section 1074 of title 10, United States Code, is amended by striking out subsection (d).

SEC. 726. [10 U.S.C. 1073 note] PAYMENTS FOR SERVICES.

(a) FORM OF PAYMENT.—Unless otherwise agreed to by the Secretary and a designated provider, the form of payment for health care services provided by a designated provider shall be on a full risk capitation payment basis. The capitation payments shall be negotiated and agreed upon by the Secretary and the designated provider. In addition to such other factors as the parties may agree to apply, the capitation payments shall be based on the utilization

experience of enrollees and competitive market rates for equivalent health care services for a comparable population to such enrollees in the area in which the designated provider is located.

(b) **LIMITATION ON TOTAL PAYMENTS.**—Total capitation payments for health care services to a designated provider shall not exceed an amount equal to the cost that would have been incurred by the Government if the enrollees had received such health care services through a military treatment facility, the TRICARE program, or the Medicare program, as the case may be. In establishing the ceiling rate for enrollees with the designated providers who are also eligible for the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense shall take into account the health status of the enrollees.

(c) **ESTABLISHMENT OF PAYMENT RATES ON ANNUAL BASIS.**—The Secretary and a designated provider shall establish capitation payments on an annual basis, subject to periodic review for actuarial soundness and to adjustment for any adverse or favorable selection reasonably anticipated to result from the design of the program under this subtitle.

(d) **ALTERNATIVE BASIS FOR CALCULATING PAYMENTS.**—After September 30, 1999, the Secretary and a designated provider may mutually agree upon a new basis for calculating capitation payments.

SEC. 727. [10 U.S.C. 1073 note] REPEAL OF SUPERSEDED AUTHORITIES.

(a) **REPEALS.**—The following provisions of law are repealed:

(1) Section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c).

(2) Section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d).

(3) Section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 42 U.S.C. 248c note).

(4) Section 726 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 42 U.S.C. 248c note).

(b) **EFFECTIVE DATE.**—The amendments made by paragraphs (1), (2), and (3) of subsection (a) shall take effect on October 1, 1997.

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Subtitle E—Other Matters

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SEC. 742. [10 U.S.C. 1071 note] EXTERNAL PEER REVIEW FOR DEFENSE HEALTH PROGRAM EXTRAMURAL MEDICAL RESEARCH INVOLVING HUMAN SUBJECTS.

(a) **ESTABLISHMENT OF EXTERNAL PEER REVIEW PROCESS.**—The Secretary of Defense shall establish a peer review process that will use persons who are not officers or employees of the Government to review the research protocols of medical research projects.

(b) **PEER REVIEW REQUIREMENTS.**—Funds of the Department of Defense may not be obligated or expended for any medical research project unless the research protocol for the project has been ap-

proved by the external peer review process established under subsection (a).

(c) **MEDICAL RESEARCH PROJECT DEFINED.**—For purposes of this section, the term “medical research project” means a research project that—

- (1) involves the participation of human subjects;
- (2) is conducted solely by a non-Federal entity; and
- (3) is funded through the Defense Health Program account.

(d) **EFFECTIVE DATE.**—The peer review requirements of subsection (b) shall take effect on October 1, 1996, and, except as provided in subsection (e), shall apply to all medical research projects proposed funded on or after that date, including medical research projects funded pursuant to any requirement of law enacted before, on, or after that date.

(e) **EXCEPTIONS.**—Only the following medical research projects shall be exempt from the peer review requirements of subsection (b):

- (1) A medical research project that the Secretary determines has been substantially completed by October 1, 1996.
- (2) A medical research project funded pursuant to any provision of law enacted on or after that date if the provision of law specifically refers to this section and specifically states that the peer review requirements do not apply.

SEC. 743. [10 U.S.C. 1074 note] INDEPENDENT RESEARCH REGARDING GULF WAR SYNDROME.

(a) **DEFINITIONS.**—For purposes of this section:

(1) The term “Gulf War service” means service on active duty as a member of the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(2) The term “Gulf War syndrome” means the complex of illnesses and symptoms commonly known as Gulf War syndrome.

(3) The term “Persian Gulf War” has the meaning given that term in section 101(33) of title 38, United States Code.

(b) **RESEARCH.**—The Secretary of Defense shall provide, by contract, grant, or other transaction, for scientific research to be carried out by entities independent of the Federal Government on possible causal relationships between Gulf War syndrome and—

(1) the possible exposures of members of the Armed Forces to chemical warfare agents or other hazardous materials during Gulf War service; and

(2) the use by the Department of Defense during the Persian Gulf War of combinations of various inoculations and investigational new drugs.

(c) **PROCEDURES FOR AWARDED GRANTS.**—The Secretary shall prescribe the procedures to be used to make research awards under subsection (b). The procedures shall—

(1) include a comprehensive, independent peer-review process for the evaluation of proposals for scientific research that are submitted to the Department of Defense; and

(2) provide for the final selection of proposals for award to be based on the scientific merit and program relevance of the proposed research.

(d) AVAILABILITY OF FUNDS.—Of the amount authorized to be appropriated under section 301(21) for defense medical programs, \$10,000,000 is available for research under subsection (b).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996

(P.L. 104-106, approved Feb. 10, 1996)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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Subtitle B—TRICARE Program

SEC. 711. DEFINITION OF TRICARE PROGRAM.

For purposes of this subtitle, the term “TRICARE program” means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

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SEC. 715. [10 U.S.C. 1073 note] TRAINING IN HEALTH CARE MANAGEMENT AND ADMINISTRATION FOR TRICARE LEAD AGENTS.

(a) PROVISION OF TRAINING.—The Secretary of Defense shall implement a professional educational program to provide appropriate training in health care management and administration—

(1) to each commander, deputy commander, and managed care coordinator of a military medical treatment facility of the Department of Defense, and any other person, who is selected to serve as a lead agent to coordinate the delivery of health care by military and civilian providers under the TRICARE program; and

(2) to appropriate members of the support staff of the treatment facility who will be responsible for daily operation of the TRICARE program.

(b) LIMITATION ON ASSIGNMENT UNTIL COMPLETION OF TRAINING.—No person may be assigned as the commander, deputy commander, or managed care coordinator of a military medical treatment facility or as a TRICARE lead agent or senior member of the staff of a TRICARE lead agent office until the Secretary of the military department concerned submits a certification to the Secretary

of Defense that such person has completed the training described in subsection (a).

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SEC. 717. [10 U.S.C. 1073 note] EVALUATION AND REPORT ON TRICARE PROGRAM EFFECTIVENESS.

(a) **EVALUATION REQUIRED.**—The Secretary of Defense shall arrange for an on-going evaluation of the effectiveness of the TRICARE program in meeting the goals of increasing the access of covered beneficiaries under chapter 55 of title 10, United States Code, to health care and improving the quality of health care provided to covered beneficiaries, without increasing the costs incurred by the Government or covered beneficiaries. The evaluation shall specifically address—

- (1) the impact of the TRICARE program on military retirees with regard to access, costs, and quality of health care services; and
- (2) identify noncatchment areas in which the health maintenance organization option of the TRICARE program is available or is proposed to become available.

(b) **ENTITY TO CONDUCT EVALUATION.**—The Secretary may use a federally funded research and development center to conduct the evaluation required by subsection (a).

(c) **ANNUAL REPORT.**—Not later than March 1, 1997, and each March 1 thereafter, the Secretary shall submit to Congress a report describing the results of the evaluation under subsection (a) during the preceding year.

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Subtitle E—Other Matters

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SEC. 743. [10 U.S.C. 1086 note] WAIVER OF COLLECTION OF PAYMENTS DUE FROM CERTAIN PERSONS UNAWARE OF LOSS OF CHAMPUS ELIGIBILITY.

(a) **AUTHORITY TO WAIVE COLLECTION.**—The administering Secretaries may waive the collection of payments otherwise due from a person described in subsection (b) as a result of the receipt by the person of health benefits under section 1086 of title 10, United States Code, after the termination of the person’s eligibility for such benefits.

(b) **PERSONS ELIGIBLE FOR WAIVER.**—A person shall be eligible for relief under subsection (a) if the person—

- (1) is a person described in paragraph (1) of subsection (d) of section 1086 of title 10, United States Code;
- (2) in the absence of such paragraph, would have been eligible for health benefits under such section; and
- (3) at the time of the receipt of such benefits, satisfied the criteria specified in subparagraphs (A) and (B) of paragraph (2) of such subsection.

(c) **EXTENT OF WAIVER AUTHORITY.**—The authority to waive the collection of payments pursuant to this section shall apply with regard to health benefits provided under section 1086 of title 10, United States Code, to persons described in subsection (b) during

the period beginning on January 1, 1967, and ending on the later of—

(1) the termination date of any special enrollment period provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) specifically for such persons; and

(2) July 1, 1996.

(d) DEFINITIONS.—For purposes of this section, the term “administering Secretaries” has the meaning given such term in section 1072(3) of title 10, United States Code.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995

(P.L. 103-337, approved Oct. 5, 1994)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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Subtitle A—Health Care Services

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**SEC. 704. AUTHORIZATION FOR MEDICAL AND DENTAL CARE FOR
ABUSED DEPENDENTS OF CERTAIN MEMBERS.**

[Subsections (a) and (b) consisted of amendments.]

(c) [10 U.S.C. 1091 note] **PERSONAL SERVICE CONTRACTS TO PROVIDE CARE.**—(1) The Secretary of Defense may enter into personal service contracts under the authority of section 1091 of title 10, United States Code, with persons described in paragraph (2) to provide the services of clinical counselors, family advocacy program staff, and victim's services representatives to members of the Armed Forces and covered beneficiaries who require such services. Notwithstanding subsection (a) of such section, such services may be provided in medical treatment facilities of the Department of Defense or elsewhere as determined appropriate by the Secretary.

(2) The persons with whom the Secretary may enter into a personal services contract under this subsection shall include clinical social workers, psychologists, psychiatrists, and other comparable professionals who have advanced degrees in counseling or related academic disciplines and who meet all requirements for State licensure and board certification requirements, if any, within their fields of specialization.

Subtitle C—Persian Gulf Illness

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**SEC. 721. [10 U.S.C. 1074 note] PROGRAMS RELATED TO DESERT STORM
MYSTERY ILLNESS.**

(a) **OUTREACH PROGRAM TO PERSIAN GULF VETERANS AND FAMILIES.**—The Secretary of Defense shall institute a comprehensive outreach program to inform members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf Conflict, and the families of such members, of illnesses that may result from such service. The program shall be carried out through both medical and command channels, as well as any

other means the Secretary considers appropriate. Under the program, the Secretary shall—

(1) inform such individuals regarding—

(A) common disease symptoms reported by Persian Gulf veterans that may be due to service in the Southwest Asia theater of operations;

(B) blood donation policy;

(C) available counseling and medical care for such members; and

(D) possible health risks to children of Persian Gulf veterans;

(2) inform such individuals of the procedures for registering in either the Persian Gulf Veterans Health Surveillance System of the Department of Defense or the Persian Gulf War Health Registry of the Department of Veterans Affairs; and

(3) encourage such members to report any symptoms they may have and to register in the appropriate health surveillance registry.

(b) INCENTIVES TO PERSIAN GULF VETERANS TO REGISTER.—In order to encourage Persian Gulf veterans to register any symptoms they may have in one of the existing health registries, the Secretary of Defense shall provide the following:

(1) For any Persian Gulf veteran who is on active duty and who registers with the Department of Defense's Persian Gulf War Veterans Health Surveillance System, a full medical evaluation and any required medical care.

(2) For any Persian Gulf War veteran who is, as of the date of the enactment of this Act, a member of a reserve component, opportunity to register at a military medical facility in the Persian Gulf Veterans Health Care Surveillance System and, in the case of a Reserve who registers in that registry, a full medical evaluation by the Department of Defense. Depending on the results of the evaluation and on eligibility status, reserve personnel may be provided medical care by the Department of Defense.

(3) For a Persian Gulf veteran who is not, as of the date of the enactment of this Act, on active duty or a member of a reserve component, assistance and information at a military medical facility on registering with the Persian Gulf War Registry of the Department of Veterans Affairs and information related to support services provided by the Department of Veterans Affairs.

(c) COMPATIBILITY OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS REGISTRIES.—The Secretary of Defense shall take appropriate actions to ensure—

(1) that the data collected by and the testing protocols of the Persian Gulf War Health Surveillance System maintained by the Department of Defense are compatible with the data collected by and the testing protocols of the Persian Gulf War Veterans Health Registry maintained by the Department of Veterans Affairs; and

(2) that all information on individuals who register with the Department of Defense for purposes of the Persian Gulf

War Health Surveillance System is provided to the Secretary of Veterans Affairs for incorporation into the Persian Gulf War Veterans Health Registry.

(d) PRESUMPTIONS ON BEHALF OF SERVICE MEMBER.—(1) A member of the Armed Forces who is a Persian Gulf veteran, who has symptoms of illness, and who the Secretary concerned finds may have become ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations.

(2) A member of the Armed Forces who is a Persian Gulf veteran and who reports being ill as a result of serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War shall be considered for Department of Defense purposes to have become ill as a result of serving in that theater of operations until such time as the weight of medical evidence establishes other cause or causes of the member's illness.

(3) The Secretary concerned shall ensure that, for the purposes of health care treatment by the Department of Defense, health care and personnel administration, and disability evaluation by the Department of Defense, the symptoms of any member of the Armed Forces covered by paragraph (1) or (2) are examined in light of the member's service in the Persian Gulf War and in light of the reported symptoms of other Persian Gulf veterans. The Secretary shall ensure that, in providing health care diagnosis and treatment of the member, a broad range of potential causes of the member's symptoms are considered and that the member's symptoms are considered collectively, as well as by type of symptom or medical specialty, and that treatment across medical specialties is coordinated appropriately.

(4) The Secretary of Defense shall ensure that the presumptions of service connection and illness specified in paragraphs (1) and (2) are incorporated in appropriate service medical and personnel regulations and are widely disseminated throughout the Department of Defense.

(e) REVISION OF THE PHYSICAL EVALUATION BOARD CRITERIA.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs and the Secretary of Health and Human Services, shall ensure that case definitions of Persian Gulf related illnesses, as well as the Physical Evaluation Board criteria used to set disability ratings for members no longer medically qualified for continuation on active duty, are established as soon as possible to permit accurate disability ratings related to a diagnosis of Persian Gulf illnesses.

(2) Until revised disability criteria can be implemented and members of the Armed Forces can be rated against those criteria, the Secretary of Defense shall ensure—

(A) that any member of the Armed Forces on active duty who may be suffering from a Persian Gulf-related illness is afforded continued military medical care; and

(B) that any member of the Armed Forces on active duty who is found by a Physical Evaluation Board to be unfit for continuation on active duty as a result of a Persian Gulf-related illness for which the board has no rating criteria (or inad-

equate rating criteria) for the illness or condition from which the member suffers is placed on the temporary disability retired list.

(f) REVIEW OF RECORDS AND RERATING OF PREVIOUSLY DISCHARGED GULF WAR VETERANS.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall ensure that a review is made of the health and personnel records of each Persian Gulf veteran who before the date of the enactment of this Act was discharged from active duty, or was medically retired, as a result of a Physical Evaluation Board process.

(2) The review under paragraph (1) shall be carried out to ensure that former Persian Gulf veterans who may have been suffering from a Persian Gulf-related illness at the time of discharge or retirement from active duty as a result of the Physical Evaluation Board process are reevaluated in accordance with the criteria established under subsection (e)(1) and, if appropriate, are rerated.

(g) PERSIAN GULF ILLNESS MEDICAL REFERRAL CENTERS.—The Secretary of Defense shall evaluate the feasibility of establishing one or more medical referral centers to provide uniform, coordinated medical care for Persian Gulf veterans on active duty who are or may be suffering from a Persian Gulf-related illness. The Secretary shall submit a report on such feasibility to the Committees on Armed Services of the Senate and House of Representatives not later than six months after the date of the enactment of this Act.

(h) ANNUAL REPORT TO CONGRESS.—**[Repealed by section 1031(e) of P.L. 108-136]**

(i) PERSIAN GULF VETERAN.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf Conflict.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994

(P.L. 103-160, approved Nov. 30, 1993)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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SEC. 731. [10 U.S.C. 1073 note] USE OF HEALTH MAINTENANCE ORGANIZATION MODEL AS OPTION FOR MILITARY HEALTH CARE.

(a) **USE OF MODEL.**—The Secretary of Defense shall prescribe and implement a health benefit option (and accompanying cost-sharing requirements) for covered beneficiaries eligible for health care under chapter 55 of title 10, United States Code, that is modelled on health maintenance organization plans offered in the private sector and other similar Government health insurance programs. The Secretary shall include, to the maximum extent practicable, the health benefit option required under this subsection as one of the options available to covered beneficiaries in all managed health care initiatives undertaken by the Secretary after December 31, 1994.

(b) **ELEMENTS OF OPTION.**—The Secretary shall offer covered beneficiaries who enroll in the health benefit option required under subsection (a) reduced out-of-pocket costs and a benefit structure that is as uniform as possible throughout the United States. The Secretary shall allow enrollees to seek health care outside of the option, except that the Secretary may prescribe higher out-of-pocket costs than are provided under section 1079 or 1086 of title 10, United States Code, for enrollees who obtain health care outside of the option.

(c) **GOVERNMENT COSTS.**—The health benefit option required under subsection (a) shall be administered so that the costs incurred by the Secretary under the TRICARE program are no greater than the costs that would otherwise be incurred to provide health care to the members of the uniformed services and covered beneficiaries who participate in the TRICARE program.

(d) **DEFINITIONS.**—For purposes of this section:

(1) The term “covered beneficiary” means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.

(2) The term “TRICARE program” means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United

States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

(e) REGULATIONS.—Not later than December 31, 1994, the Secretary shall prescribe final regulations to implement the health benefit option required by subsection (a).

(f) MODIFICATION OF EXISTING CONTRACTS.—In the case of managed health care contracts in effect or in final stages of acquisition as of December 31, 1994, the Secretary may modify such contracts to incorporate the health benefit option required under subsection (a).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

(P.L. 102-484, approved Oct. 23, 1992)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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Subtitle A—Health Care Services

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**SEC. 702. [10 U.S.C. 1079 note] PROGRAMS RELATING TO THE SALE OF
PHARMACEUTICALS.**

(a) **DEMONSTRATION PROJECT FOR PHARMACEUTICALS BY MAIL.**—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the administering Secretaries, shall—

(1) establish a demonstration project that permits eligible persons described in subsection (c) to obtain prescription pharmaceuticals by mail in connection with medical care furnished to such persons under chapter 55 of title 10, United States Code; and

(2) conduct the demonstration project in two or more regions selected by the Secretary, each of which consists of two or more States.

(b) **RETAIL PHARMACY NETWORK.**—To the maximum extent practicable, the Secretary of Defense shall include in each managed health care program initiated, awarded, or renewed by the Secretary after January 1, 1993, a program to supply prescription pharmaceuticals to eligible persons described in subsection (c) through a managed care network of community retail pharmacies in the area covered by the managed health care program.

(c) **ELIGIBLE PERSONS.**—A person eligible to obtain pharmaceuticals under the demonstration project established under subsection (a) or the retail pharmacy network included in a managed health care program under subsection (b) is any person living in the area covered by the demonstration project or managed health care program—

(1) who is eligible for medical care under a contract for medical care entered into by the Secretary of Defense under section 1079 or 1086 of title 10, United States Code; or

(2) who—

(A) would be eligible for medical care under a contract for medical care entered into under section 1086 of such title except for operation of subsection (d)(1) of such section; and

(B) either—

(i) resides in an area that is adversely affected (as determined by the Secretary) by the closure of a health care facility of the uniformed services as a result of the closure or realignment of the military installation at which such facility is located; or

(ii) can demonstrate to the satisfaction of the Secretary that the person relied upon a health care facility referred to in clause (i) before the closure of the facility to obtain the person's pharmaceuticals.

(d) PHARMACEUTICALS OFFERED; PURCHASE FEES.—(1) The Secretary of Defense, in consultation with the administering Secretaries, shall—

(A) determine the pharmaceuticals that may be obtained by eligible persons under the demonstration project established under subsection (a) or the retail pharmacy network included in a managed health care program under subsection (b); and

(B) establish an appropriate fee, charge, or copayment to be paid by such persons for pharmaceuticals obtained under the demonstration project or managed health care program.

(2) In the case of persons eligible to participate in the demonstration project for pharmaceuticals or the retail pharmacy network by reason of clause (ii) of subsection (c)(2)(B), the Secretary of Defense may increase the fees, charges, and copayments established under paragraph (1)(B) and otherwise applicable to such persons by an amount necessary to cover any additional costs incurred by the administering Secretaries as a result of making pharmaceuticals available to such persons under this section.

(e) REPORT REGARDING DEMONSTRATION PROJECT.—Not later than two years after the establishment of the demonstration project under subsection (a), the Secretary of Defense shall submit to Congress a report—

(1) describing the results of the demonstration project required by subsection (a);

(2) containing such recommendations for revision of the demonstration project as the Secretary considers to be necessary; and

(3) containing a plan (including a schedule) for implementing the demonstration project throughout the United States.

(f) ADDITIONAL REPORT REGARDING PROGRAMS.—Not later than January 1, 1994, the Secretary of Defense shall submit to Congress a report containing—

(1) an evaluation of the feasibility and advisability of increasing the size of those areas determined by the Secretary under subsection (c)(2) to be adversely affected by the closure of a health care facility of the uniformed services in order to increase the number of persons described in such subsection who will be eligible to participate in the demonstration project

for pharmaceuticals by mail or in the retail pharmacy network under this section;

(2) an evaluation of the feasibility and advisability of expanding the demonstration project and the retail pharmacy network under this section to include all covered beneficiaries under chapter 55 of title 10, United States Code, including those persons currently excluded from participation in the Civilian Health and Medical Program of the Uniformed Services by operation of section 1086(d)(1) of such title;

(3) an estimation of the costs that would be incurred, and any savings that would be achieved by improving efficiencies of operation, as a result of undertaking the increase or expansion described in paragraph (1) or (2); and

(4) such recommendations as the Secretary considers to be appropriate.

(g) DEFINITIONS.—In this section, the terms “uniformed services” and “administering Secretaries” have the meanings given those terms in section 1072 of title 10, United States Code.

(h) TERMINATION.—This section shall cease to apply to the Secretary of Defense on the date after the implementation of section 711 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 that the Secretary determines appropriate, with a view to minimizing instability with respect to the provision of pharmacy benefits, but in no case later than the date that is one year after the date of the enactment of such Act.

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Subtitle B—Health Care Management

SEC. 711. [10 U.S.C. 1106 note] NATIONAL CLAIMS PROCESSING SYSTEM FOR CHAMPUS.

(a) CLAIMS PROCESSING SYSTEM REQUIRED.—(1) The Secretary of Defense, in consultation with the other administering Secretaries, shall provide by contract for the operation of a claims processing system to be known as the “National Claims Processing System for CHAMPUS”. The Secretary may procure the system in installments, including the use of incremental modules. The system, including completion and integration of all modules, shall be in full operation not later than seven years after the date of the enactment of this Act.

(2) The Secretary shall use competitive procedures for entering into any contract or contracts under paragraph (1).

(b) SYSTEM FUNCTIONS.—The claims processing system shall include at least the following functions:

(1) The maintenance in electronic or written form, or both, of appropriate information on health care services provided to covered beneficiaries by or through third parties under CHAMPUS or any alternative CHAMPUS program or demonstration project. Such information shall include—

(A) the services to which such beneficiaries are entitled or eligible under an insurance plan, medical service plan, or health plan under CHAMPUS;

(B) the insurers, medical services, or health plans that provide such services; and

(C) the services available to beneficiaries under each insurance plan, medical service plan, or health plan, and the payment required of the beneficiaries and the insurer, medical service, or health plan for such services under the plan.

(2) The ability to receive in electronic or written form claims submitted by insurers, medical services, and health plans for services provided to covered beneficiaries.

(3) The ability to process, adjudicate, and pay (by electronic or other means) such claims.

(4) The provision of the information described in paragraphs (1) and (2) and information on the matters referred to in paragraph (3) by telephone, electronic, or other means to covered beneficiaries, insurers, medical services, and health plans.

(c) **CONSISTENCY WITH MEDICARE CLAIMS REQUIREMENTS.**—The Secretary of Defense shall ensure, to the maximum extent practicable, that claims submitted to the claims processing system conform to the requirements applicable to claims submitted to the Secretary of Health and Human Services with respect to medical care provided under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(d) **IDENTIFICATION CARD.**—The Secretary of Defense shall take appropriate actions to determine whether the use by covered beneficiaries of a standard identification card containing electronically readable information will enhance the capability of the claims processing center to carry out the activities set forth in subsection (b).

(e) **TRANSITION TO SYSTEM.**—After January 1, 1996, any modification or acquisition related to claims processing systems operations in the Office of the Civilian Health and Medical Program of the Uniformed Services shall contain provisions to transfer such operations to the claims processing system required by subsection (a). After January 1, 1999, any renewal or acquisition for fiscal intermediary services (including coordinated care implementations in military hospitals and clinics) shall contain provisions to transfer claims processing systems operations related to such fiscal intermediary services to the claims processing system required by subsection (a).

(f) **DEFINITIONS.**—For purposes of this section:

(1) The term “administering Secretaries” has the meaning given that term in paragraph (3) of section 1072 of title 10, United States Code.

(2) The term “CHAMPUS” means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of such section.

(3) The term “covered beneficiary” has the meaning given that term in paragraph (5) of such section.

SEC. 712. [10 U.S.C. 1073 note] CONDITION ON EXPANSION OF CHAMPUS REFORM INITIATIVE TO OTHER LOCATIONS.

(a) **CONDITION.**—(1) Except as provided in subsection (b), the Secretary of Defense may not expand the CHAMPUS reform initiative underway in the States of California and Hawaii to another location until not less than 90 days after the date on which the Secretary certifies to Congress that expansion of the initiative to that

location is the most efficient method of providing health care to covered beneficiaries in that location. In determining whether the expansion of the CHAMPUS reform initiative to a location is the most efficient method of providing health care to covered beneficiaries in that location, the Secretary shall consider the cost-effectiveness of the initiative (while assuring that the combined cost of care in military treatment facilities and under the Civilian Health and Medical Program of the Uniformed Services will not be increased as a result of the expansion) and the effect of the expansion of the initiative on the access of covered beneficiaries to health care and on the quality of health care received by covered beneficiaries.

(2) To the extent any revision of the CHAMPUS reform initiative is necessary in order to make the certification required by this subsection, the Secretary shall assure that enrolled covered beneficiaries may obtain health care services with reduced out-of-pocket costs, as compared to standard CHAMPUS.

(b) EXCEPTION.—The Secretary of Defense may waive the operation of the condition on the expansion of the CHAMPUS reform initiative specified in subsection (a) in order to expand the initiative to a location adversely affected by the closure or realignment of a military installation in that location, as determined by the Secretary.

(c) EVALUATION OF CERTIFICATION.—The Comptroller General of the United States and the Director of the Congressional Budget Office shall evaluate each certification made by the Secretary of Defense under subsection (a) that expansion of the CHAMPUS reform initiative to another location is the most efficient method of providing health care to covered beneficiaries in that location. They shall submit their findings to Congress if these findings differ substantially from the findings upon which the Secretary made the decision to expand the CHAMPUS reform initiative.

(d) DEFINITIONS.—For purposes of this section:

(1) The terms “CHAMPUS reform initiative” and “initiative” mean the health care delivery project required by section 702 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 10 U.S.C. 1073 note).

(2) The term “covered beneficiary” has the meaning given that term in section 1072(5) of title 10, United States Code.

(3) The terms “Civilian Health and Medical Program of the Uniformed Services” and “CHAMPUS” have the meaning given the term “Civilian Health and Medical Program of the Uniformed Services” in section 1072(4) of title 10, United States Code.

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SEC. 715. POSITIVE INCENTIVES UNDER THE COORDINATED CARE PROGRAM.

(a) INCLUSION OF POSITIVE INCENTIVES FOR ENROLLMENT.—The Secretary of Defense shall modify the Policy Guidelines on the Department of Defense Coordinated Care Program to provide covered beneficiaries with additional positive incentives to enroll in the Coordinated Care Program of the Department of Defense.

(b) TYPES OF POSITIVE INCENTIVES.—The positive incentives provided under subsection (a) may include—

(1) a reduction of the copayment and deductibles prescribed under sections 1079 and 1086 of title 10, United States Code, for covered beneficiaries who enroll in the Coordinated Care Program;

(2) alternative cost-sharing requirements for certain types of care; and

(3) an expansion of the benefits provided under the Coordinated Care Program beyond the benefits authorized under CHAMPUS.

(c) EFFECT ON CERTAIN EXISTING PROGRAMS.—The modification required under subsection (a) shall permit health care demonstration projects in existence on the date of the enactment of this Act (including the CHAMPUS reform initiative, the catchment area management projects, the CHAMPUS select fiscal intermediary program in the Southeast Region, and the managed health care program established in the Tidewater region of Virginia) and future managed health care initiatives undertaken by the Department of Defense to offer covered beneficiaries who do not enroll in the Coordinated Care Program the opportunity to use a preferred provider network of health care providers.

(d) DETERMINATION OF INCENTIVES.—In determining what level and types of positive incentives are likely to induce covered beneficiaries to enroll in the Coordinated Care Program, the Secretary of Defense shall take into consideration the extent to which covered beneficiaries not enrolled in the program are permitted to choose health care providers without prior referral or approval.

(e) PROHIBITION ON EXCLUSIONS.—Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary of Defense may not deny access to military treatment facilities to covered beneficiaries who do not enroll in the Coordinated Care Program. However, the Secretary may establish reasonable admission preferences for covered beneficiaries enrolled in the program as an incentive to encourage enrollment.

(f) DEFINITIONS.—For purposes of this section:

(1) The term “CHAMPUS” means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of section 1072 of title 10, United States Code.

(2) The term “covered beneficiary” has the meaning given that term in paragraph (5) of such section.

(3) The term “Policy Guidelines on the Department of Defense Coordinated Care Program” means the Policy Guidelines on the Department of Defense Coordinated Care Program that were issued by the Assistant Secretary of Defense for Health Affairs on January 8, 1992.

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Subtitle C—Other Matters

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SEC. 722. [10 U.S.C. 1073 note] MILITARY HEALTH CARE FOR PERSONS RELIANT ON HEALTH CARE FACILITIES AT BASES BEING CLOSED OR REALIGNED.

(a) **ESTABLISHMENT.**—Not later than December 31, 2003, the Secretary of Defense shall establish a working group on the provision of military health care to persons who rely for health care on health care facilities located at military installations—

(1) inside the United States that are selected for closure or realignment in the 2005 round of realignments and closures authorized by sections 2912, 2913, and 2914 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), as added by title XXX of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 155 Stat. 1342); or

(2) outside the United States that are selected for closure or realignment as a result of force posture changes.

(b) **MEMBERSHIP.**—The members of the working group shall include, at a minimum, the following:

(1) The Assistant Secretary of Defense for Health Affairs, or a designee of the Assistant Secretary.

(2) The Surgeon General of the Army, or a designee of that Surgeon General.

(3) The Surgeon General of the Navy, or a designee of that Surgeon General.

(4) The Surgeon General of the Air Force, or a designee of that Surgeon General.

(5) At least one independent member (appointed by the Secretary of Defense) from each TRICARE region, but not to exceed a total of 12 members appointed under this paragraph, whose experience in matters within the responsibility of the working group qualify that person to represent persons authorized health care under chapter 55 of title 10, United States Code.

(c) **DUTIES.**—(1) In developing the recommendations for the 2005 round of realignments and closures required by sections 2913 and 2914 of the Defense Base Closure and Realignment Act of 1990, the Secretary of Defense shall consult with the working group.

(2) The working group shall be available to provide assistance to the Defense Base Closure and Realignment Commission.

(3) In the case of each military installation referred to in paragraph (1) or (2) of subsection (a) whose closure or realignment will affect the accessibility to health care services for persons entitled to such services under chapter 55 of title 10, United States Code, the working group shall provide to the Secretary of Defense a plan for the provision of the health care services to such persons.

(d) **SPECIAL CONSIDERATIONS.**—In carrying out its duties under subsection (c), the working group—

(1) shall conduct meetings with persons entitled to health care services under chapter 55 of title 10, United States Code, or representatives of such persons;

(2) may use reliable sampling techniques;

(3) may visit the areas where closures or realignments of military installations will adversely affect the accessibility of

health care for such persons and may conduct public meetings; and

(4) shall ensure that members of the uniformed services on active duty, members and former members of the uniformed services entitled to retired or retainer pay, and dependents and survivors of such members and retired personnel are afforded the opportunity to express their views.

(e) APPLICATION OF ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group established pursuant to this section.

(f) TERMINATION.—The working group established pursuant to subsection (a) shall terminate on December 31, 2006.

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SEC. 724. [10 U.S.C. 1071 note] ANNUAL BENEFICIARY SURVEY.

(a) SURVEY REQUIRED.—The administering Secretaries shall conduct annually a formal survey of persons receiving health care under chapter 55 of title 10, United States Code, in order to determine the following:

(1) The availability of health care services to such persons through the health care system provided for under that chapter, the types of services received, and the facilities in which the services were provided.

(2) The familiarity of such persons with the services available under that system and with the facilities in which such services are provided.

(3) The health of such persons.

(4) The level of satisfaction of such persons with that system and the quality of the health care provided through that system.

(5) Such other matters as the administering Secretaries determine appropriate.

(b) EXEMPTION.—An annual survey under subsection (a) shall be treated as not a collection of information for the purposes for which such term is defined in section 3502(4) of title 44, United States Code.

(c) DEFINITION.—For purposes of this section, the term “administering Secretaries” has the meaning given such term in section 1072(3) of title 10, United States Code.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992
AND 1993

(P.L. 102-190, approved Dec. 5, 1991)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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PART B—HEALTH CARE MANAGEMENT

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**SEC. 722. [10 U.S.C. 1073 note] AUTHORIZATION FOR THE EXTENSION
OF CHAMPUS REFORM INITIATIVE.**

(a) **AUTHORITY.**—Upon the termination (for any reason) of the contract of the Department of Defense in effect on the date of the enactment of this Act under the CHAMPUS reform initiative established under section 702 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 1073 note), the Secretary of Defense may enter into a replacement or successor contract with the same or a different contractor and for such amount as may be determined in accordance with applicable procurement laws and regulations and without regard to any limitation (enacted before, on, or after the date of the enactment of this Act) on the availability of funds for that purpose.

(b) **TREATMENT OF LIMITATION ON FUNDS FOR PROGRAM.**—No provision of law stated as a limitation on the availability of funds may be treated as constituting the extension of, or as requiring the extension of, any contract under the CHAMPUS reform initiative that would otherwise expire in accordance with its terms.

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PART C—MISCELLANEOUS

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**SEC. 734. [10 U.S.C. 1074 note] REGISTRY OF MEMBERS OF THE ARMED
FORCES EXPOSED TO FUMES OF BURNING OIL IN CON-
NECTION WITH OPERATION DESERT STORM.**

(a) **ESTABLISHMENT OF REGISTRY.**—The Secretary of Defense shall establish and maintain a special record (in this section referred to as the “Registry”) relating to the following members of the Armed Forces:

(1) Members who, as determined by the Secretary, were exposed to the fumes of burning oil in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

(2) Any other members who served in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

(b) CONTENTS OF REGISTRY.—(1) The Registry shall include—

(A) with respect to each class of members referred to in each of paragraphs (1) and (2) of subsection (a)—

(i) a list containing each such member's name and other relevant identifying information with respect to the member; and

(ii) to the extent that data are available and inclusion of the data is feasible, a description of the circumstances of the member's service during the Persian Gulf conflict, including the locations in the Operation Desert Storm theater of operations in which such service occurred and the atmospheric and other environmental circumstances in such locations at the time of such service; and

(B) with respect to the members referred to in subsection (a)(1), a description of the circumstances of each exposure of each such member to the fumes of burning oil as described in such subsection (a)(1), including the length of time of the exposure.

(2) The Secretary shall establish the Registry with the advice of an independent scientific organization.

(c) REPORTING REQUIREMENT RELATING TO EXPOSURE STUDIES.—**【Repealed by section 1031(c) of P.L. 108-136】**

(d) MEDICAL EXAMINATION.—Upon the request of any member listed in the Registry pursuant to subsection (a)(1), the Secretary of the military department concerned shall, if medically appropriate, furnish a pulmonary function examination and chest x-ray to such person.

(e) EFFECTIVE DATE.—The Secretary shall establish the Registry not later than 180 days after the date of the enactment of this Act.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "Operation Desert Storm" has the meaning given such term in section 3(1) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102-25; 105 Stat. 77; 10 U.S.C. 101 note).

(2) The term "Persian Gulf conflict" has the meaning given such term in section 3(3) of such Act.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

(P.L. 101-510, approved Nov. 5, 1990)

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS**

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TITLE VII—HEALTH CARE PROVISIONS

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**SEC. 715. [10 U.S.C. 1073 note] CONDITIONS ON EXPANSION OF
CHAMPUS REFORM INITIATIVE**

(a) **CERTIFICATION OF COST-EFFECTIVENESS.**—The Secretary of Defense may not proceed with the proposed expansion of the CHAMPUS reform initiative underway in the States of California and Hawaii until not less than 90 days after the date on which the Secretary certifies to the Congress that—

(1) such CHAMPUS reform initiative has been demonstrated to be more cost-effective than the Civilian Health and Medical Program of the Uniformed Services or any other health care demonstration program being conducted by the Secretary;

(2) the contractor selected to underwrite the delivery of health care under the CHAMPUS reform initiative will accomplish the expansion without the disruption of services to beneficiaries under the Civilian Health and Medical Program of the Uniformed Services or delays in the processing of claims; and

(3) such contractor is currently, and projected to remain, financially able to underwrite the CHAMPUS reform initiative.

(b) **REPORT ON CERTIFICATION.**—Not later than 30 days after the date on which the Secretary of Defense submits the certification required by subsection (a), the Comptroller General of the United States and the Director of the Congressional Budget Office shall jointly submit to Congress a report evaluating such certification.

(c) **CHAMPUS REFORM INITIATIVE DEFINED.**—For purposes of this section, the term “CHAMPUS reform initiative” has the meaning given that term in section 702(d)(1) of the Department of Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 1073 note).

**SELECTED HEALTH-RELATED PROVISIONS OF DEFENSE
APPROPRIATIONS ACTS**

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2004

(P.L. 108-87, approved Sept. 30, 2003)

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TITLE VIII

GENERAL PROVISIONS

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SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

* * * * *

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a

health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

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SEC. 8024. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

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SEC. 8026. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

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SEC. 8054. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2002 level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

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SEC. 8060. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a non-reimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

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SEC. 8078. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(1)(2)(B) of the Social Security Act (42 U.S.C. 1396d(1)(2)(B))).

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SEC. 8089. (a) The Department of Defense is authorized to enter into agreements with the Department of Veterans Affairs and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies.

For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

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SEC. 8093. In addition to amounts provided elsewhere in this Act, \$3,800,000 is hereby appropriated for "Defense Health Program", to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, \$2,000,000 shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary, and notwithstanding any other provision of law, \$1,800,000 shall be available only for deposit into the Army, Navy, and Air Force Fisher House Non-appropriated Fund Instrumentalities and shall be used in support and upkeep of existing Fisher Houses.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2001

(P.L. 106-259, approved Aug. 9, 2000)

* * * * *

SEC. 8090. [10 U.S.C. 1073 note] Notwithstanding any other provision of law, the TRICARE managed care support contracts in effect, or in final stages of acquisition as of September 30, 2000, may be extended for 2 years: *Provided*, That any such extension may only take place if the Secretary of Defense determines that it is in the best interest of the Government: *Provided further*, That any contract extension shall be based on the price in the final best and final offer for the last year of the existing contract as adjusted for inflation and other factors mutually agreed to by the contractor and the Government: *Provided further*, That notwithstanding any other provision of law, all future TRICARE managed care support contracts replacing contracts in effect, or in the final stages of acquisition as of September 30, 2000, may include a base contract period for transition and up to seven 1-year option periods.

MISCELLANEOUS DEFENSE-RELATED HEALTH LAWS

HEALTH CARE ISSUES RELATING TO GULF WAR VETERANS

PERSIAN GULF WAR VETERANS' BENEFITS ACT

(Title I of Public Law 103-446, approved Nov. 2, 1994)

TITLE I—PERSIAN GULF WAR VETERANS

SEC. 101. SHORT TITLE.

This Act may be cited as the "Persian Gulf War Veterans' Benefits Act".

SEC. 102. [38 U.S.C. 1117 note] FINDINGS.

The Congress makes the following findings:

(1) During the Persian Gulf War, members of the Armed Forces were exposed to numerous potentially toxic substances, including fumes and smoke from military operations, oil well fires, diesel exhaust, paints, pesticides, depleted uranium, infectious agents, investigational drugs and vaccines, and indigenous diseases, and were also given multiple immunizations. It is not known whether these servicemembers were exposed to chemical or biological warfare agents. However, threats of enemy use of chemical and biological warfare heightened the psychological stress associated with the military operation.

(2) Significant numbers of veterans of the Persian Gulf War are suffering from illnesses, or are exhibiting symptoms of illness, that cannot now be diagnosed or clearly defined. As a result, many of these conditions or illnesses are not considered to be service connected under current law for purposes of benefits administered by the Department of Veterans Affairs.

(3) The National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, held in April 1994, concluded that the complex biological, chemical, physical, and psychological environment of the Southwest Asia theater of operations produced complex adverse health effects in Persian Gulf War veterans and that no single disease entity or syndrome is apparent. Rather, it may be that the illnesses suffered by those veterans result from multiple illnesses with overlapping symptoms and causes that have yet to be defined.

(4) That workshop concluded that the information concerning the range and intensity of exposure to toxic substances by military personnel in the Southwest Asia theater of operations is very limited and that such information was collected only after a considerable delay.

(5) In response to concerns regarding the health-care needs of Persian Gulf War veterans, particularly those who suffer

from illnesses or conditions for which no diagnosis has been made, the Congress, in Public Law 102-585, directed the establishment of a Persian Gulf War Veterans Health Registry, authorized health examinations for veterans of the Persian Gulf War, and provided for the National Academy of Sciences to conduct a comprehensive review and assessment of information regarding the health consequences of military service in the Persian Gulf theater of operations and to develop recommendations on avenues for research regarding such health consequences. In Public Law 103-210, the Congress authorized the Department of Veterans Affairs to provide health care services on a priority basis to Persian Gulf War veterans. The Congress also provided in Public Law 103-160 (the National Defense Authorization Act for Fiscal Year 1994) for the establishment of a specialized environmental medical facility for the conduct of research into the possible health effects of exposure to low levels of hazardous chemicals, especially among Persian Gulf veterans, and for research into the possible health effects of battlefield exposure in such veterans to depleted uranium.

(6) In response to concerns about the lack of objective research on Gulf War illnesses, Congress included research provisions in the National Defense Authorization Act for Fiscal Year 1995, which was passed by the House and Senate in September 1994. This legislation requires the Secretary of Defense to provide research grants to non-Federal researchers to support three types of studies of the Gulf War syndrome. The first type of study will be an epidemiological study or studies of the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses. This will include illnesses among spouses and birth defects and illnesses among offspring born before and after the Gulf War. The second group of studies shall be conducted to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances. The final group of studies shall include clinical research and other studies on the causes, possible transmission, and treatment of Gulf War syndrome, and will include studies of veterans and their spouses and children.

(7) Further research and studies must be undertaken to determine the underlying causes of the illnesses suffered by Persian Gulf War veterans and, pending the outcome of such research, veterans who are seriously ill as the result of such illnesses should be given the benefit of the doubt and be provided compensation benefits to offset the impairment in earning capacities they may be experiencing.

SEC. 103. [38 U.S.C. 1117 note] PURPOSES.

The purposes of this title are—

(1) to provide compensation to Persian Gulf War veterans who suffer disabilities resulting from illnesses that cannot now be diagnosed or defined, and for which other causes cannot be identified;

(2) to require the Secretary of Veterans Affairs to develop at the earliest possible date case assessment strategies and definitions or diagnoses of such illnesses;

(3) to promote greater outreach to Persian Gulf War veterans and their families to inform them of ongoing research activities, as well as the services and benefits to which they are currently entitled; and

(4) to ensure that research activities and accompanying surveys of Persian Gulf War veterans are appropriately funded and undertaken by the Department of Veterans Affairs.

SEC. 104. [38 U.S.C. 1117 note] DEVELOPMENT OF MEDICAL EVALUATION PROTOCOL.

(a) UNIFORM MEDICAL EVALUATION PROTOCOL.—(1) The Secretary of Veterans Affairs shall develop and implement a uniform and comprehensive medical evaluation protocol that will ensure appropriate medical assessment, diagnosis, and treatment of Persian Gulf War veterans who are suffering from illnesses the origins of which are (as of the date of the enactment of this Act) unknown and that may be attributable to service in the Southwest Asia theater of operations during the Persian Gulf War. The protocol shall include an evaluation of complaints relating to illnesses involving the reproductive system.

(2) If such a protocol is not implemented before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such a protocol has not yet been developed.

(3)(A) The Secretary shall ensure that the evaluation under the protocol developed under this section is available at all Department medical centers that have the capability of providing the medical assessment, diagnosis, and treatment required under the protocol.

(B) The Secretary may enter into contracts with non-Department medical facilities for the provision of the evaluation under the protocol.

(C) In the case of a veteran whose residence is distant from a medical center described in subparagraph (A), the Secretary may provide the evaluation through a Department medical center described in that subparagraph and, in such a case, may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(4)(A) If the Secretary is unable to diagnose the symptoms or illness of a veteran provided an evaluation, or if the symptoms or illness of a veteran do not respond to treatment provided by the Secretary, the Secretary may use the authority in section 1703 of title 38, United States Code, in order to provide for the veteran to receive diagnostic tests or treatment at a non-Department medical facility that may have the capability of diagnosing or treating the symptoms or illness of the veteran. The Secretary may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(B) The Secretary shall request from each non-Department medical facility that examines or treats a veteran under this paragraph such information relating to the diagnosis or treatment as the Secretary considers appropriate.

(5) In each year after the implementation of the protocol, the Secretary shall enter into an agreement with the National Academy of Sciences under which agreement appropriate experts shall review the adequacy of the protocol and its implementation by the Department of Veterans Affairs.

(b) **RELATIONSHIP TO OTHER COMPREHENSIVE CLINICAL EVALUATION PROTOCOLS.**—The Secretary, in consultation with the Secretary of Defense, shall ensure that the information collected through the protocol described in this section is collected and maintained in a manner that permits the effective and efficient cross-reference of that information with information collected and maintained through the comprehensive clinical protocols of the Department of Defense for Persian Gulf War veterans.

(c) **CASE DEFINITIONS AND DIAGNOSES.**—The Secretary shall develop case definitions or diagnoses for illnesses associated with the service described in subsection (a)(1). The Secretary shall develop such definitions or diagnoses at the earliest possible date.

SEC. 105. [38 U.S.C. 1117 note] OUTREACH TO PERSIAN GULF VETERANS.

(a) **IN GENERAL.**—The Secretary of Veterans Affairs shall implement a comprehensive outreach program to inform Persian Gulf War veterans and their families of the medical care and other benefits that may be provided by the Department of Veterans Affairs and the Department of Defense arising from service in the Persian Gulf War.

(b) **NEWSLETTER.**—(1) The outreach program shall include a newsletter which shall be updated and distributed at least semi-annually and shall be distributed to the veterans listed on the Persian Gulf War Veterans Health Registry. The newsletter shall include summaries of the status and findings of Government sponsored research on illnesses of Persian Gulf War veterans and their families, as well as on benefits available to such individuals through the Department of Veterans Affairs. The newsletter shall be prepared in consultation with veterans service organizations.

(2) The requirement under this subsection for the distribution of the newsletter shall terminate on December 31, 2003.

(c) **TOLL-FREE NUMBER.**—The outreach program shall include establishment of a toll-free telephone number to provide Persian Gulf War veterans and their families information on the Persian Gulf War Veterans Health Registry, health care and other benefits provided by the Department of Veterans Affairs, and such other information as the Secretary considers appropriate. Such toll-free telephone number shall be established not later than 90 days after the date of the enactment of this Act.

SEC. 106. COMPENSATION BENEFITS FOR DISABILITY RESULTING FROM ILLNESS ATTRIBUTED TO SERVICE DURING THE PERSIAN GULF WAR.

[Omitted—Amendments]

SEC. 107. [38 U.S.C. 1117 note] EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) **EVALUATION PROGRAM.**—Subject to subsection (c), the Secretary of Veterans Affairs shall conduct a program to evaluate the health status of spouses and children of Persian Gulf War veterans. Under the program, the Secretary shall provide for the conduct of

diagnostic testing and appropriate medical examinations of any individual—

- (1) who is the spouse or child of a veteran who—
 - (A) is listed in the Persian Gulf War Veterans Registry established under section 702 of Public Law 102-585; and
 - (B) is suffering from an illness or disorder;
 - (2) who is apparently suffering from, or may have suffered from, an illness or disorder (including a birth defect, miscarriage, or stillbirth) which cannot be disassociated from the veteran's service in the Southwest Asia theater of operations; and
 - (3) who, in the case of a spouse, has granted the Secretary permission to include in the Registry relevant medical data (including a medical history and the results of diagnostic testing and medical examinations) and such other information as the Secretary considers relevant and appropriate with respect to such individual.
- (b) DURATION OF PROGRAM.—The program shall be carried out during the period beginning on November 1, 1994, and ending on September 30, 2003.
- (c) FUNDING LIMITATION.—The amount spent for the program under subsection (a) may not exceed \$2,000,000.
- (d) CONTRACTING.—The Secretary may provide for the conduct of testing and examinations under subsection (a) through appropriate contract arrangements, including fee arrangements described in section 1703 of title 38, United States Code.
- (e) STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall seek to ensure uniform development of medical data through the development of standard protocols and guidelines for such testing and examinations. If such protocols and guidelines have not been adopted before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such protocols and guidelines have not yet been developed.
- (f) ENTRY OF RESULTS IN REGISTRY.—The results of diagnostic tests, medical histories, and medical examinations conducted under subsection (a) shall be entered into the Persian Gulf War Veterans Health Registry.
- (g) OUTREACH.—The Secretary shall conduct such outreach activities as the Secretary determines necessary for the purposes of the program. In conducting such outreach activities, the Secretary shall advise that medical treatment is not available under the program.
- (h) USE OUTSIDE DEPARTMENT OF STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall—
- (1) make the standard protocols and guidelines developed under this section available to any entity which requests a copy of such protocols and guidelines; and
 - (2) enter into the registry the results of any examination of the spouse or child of a veteran who served in the Persian Gulf theater which a licensed physician certifies was conducted using those standard protocols and guidelines.
- (i) REPORT TO CONGRESS.—Not later than July 31, 1999, the Secretary shall submit to the Committees on Veterans' Affairs of

the Senate and House of Representatives a report on activities with respect to the program, including the provision of services under subsection (d).

(j) **DEFINITIONS.**—For purposes of this section, the terms “child” and “spouse” have the meanings given those terms in paragraphs (4) and (31), respectively, of section 101 of title 38, United States Code.

SEC. 108. CLARIFICATION OF SCOPE OF HEALTH EXAMINATIONS PROVIDED FOR VETERANS ELIGIBLE FOR INCLUSION IN HEALTH-RELATED REGISTRIES.

[Omitted—Amendments]

SEC. 109. [38 U.S.C. 1117 note] SURVEY OF PERSIAN GULF VETERANS.

(a) **IN GENERAL.**—The Secretary of Veterans Affairs may carry out a survey of Persian Gulf veterans to gather information on the incidence and nature of health problems occurring in Persian Gulf veterans and their families.

(b) **COORDINATION WITH DEPARTMENT OF DEFENSE.**—Any survey under subsection (a) shall be carried out in coordination with the Secretary of Defense.

(c) **PERSIAN GULF VETERAN.**—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War as defined in section 101(33) of title 38, United States Code.

SEC. 110. [38 U.S.C. 1117 note] AUTHORIZATION FOR EPIDEMIOLOGICAL STUDIES.

(a) **STUDY OF HEALTH CONSEQUENCES OF PERSIAN GULF SERVICE.**—If the National Academy of Sciences includes in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102–585) a finding that there is a sound basis for an epidemiological study or studies on the health consequences of service in the Persian Gulf theater of operations during the Persian Gulf War and recommends the conduct of such a study or studies, the Secretary of Veterans Affairs is authorized to carry out such study.

(b) **OVERSIGHT.**—(1) The Secretary shall seek to enter into an agreement with the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the National Academy of Sciences for (A) the review of proposals to conduct the research referred to in subsection (a), (B) oversight of such research, and (C) review of the research findings.

(2) If the Secretary is unable to enter into an agreement under paragraph (1) with the entity specified in that paragraph, the Secretary shall enter into an agreement described in that paragraph with another appropriate scientific organization which does not have a connection to the Department of Veterans Affairs. In such a case, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, at least 90 days before the date on which the agreement is entered into, notice in writing identifying the organization with which the Secretary intends to enter into the agreement.

(c) **ACCESS TO DATA.**—The Secretary shall enter into agreements with the Secretary of Defense and the Secretary of Health and Human Services to make available for the purposes of any

study described in subsection (a) all data that the Secretary, in consultation with the National Academy of Sciences and the contractor for the study, considers relevant to the study.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Department such sums as are necessary for the conduct of studies described in subsection (a).

SEC. 111. COST-SAVINGS PROVISIONS.

[Omitted—Amendments]

PERSIAN GULF WAR VETERANS' HEALTH STATUS ACT

(Title VII of Public Law 102-585, approved Nov. 4, 1992)

TITLE VII—PERSIAN GULF WAR VETERANS' HEALTH STATUS

SEC. 701. [38 U.S.C. 527 note] SHORT TITLE.

This title may be cited as the “Persian Gulf War Veterans’ Health Status Act”.

SEC. 702. [38 U.S.C. 527 note] PERSIAN GULF WAR VETERANS HEALTH REGISTRY.

(a) ESTABLISHMENT OF REGISTRY.—The Secretary of Veterans Affairs shall establish and maintain a special record to be known as the “Persian Gulf War Veterans Health Registry” (in this section referred to as the “Registry”).

(b) CONTENTS OF REGISTRY.—Except as provided in subsection (c), the Registry shall include the following information:

(1) A list containing the name of each individual who served as a member of the Armed Forces in the Persian Gulf theater of operations during the Persian Gulf War and who—

(A) applies for care or services from the Department of Veterans Affairs under chapter 17 of title 38, United States Code;

(B) files a claim for compensation under chapter 11 of such title on the basis of any disability which may be associated with such service;

(C) dies and is survived by a spouse, child, or parent who files a claim for dependency and indemnity compensation under chapter 13 of such title on the basis of such service;

(D) requests from the Department a health examination under section 703; or

(E) receives from the Department of Defense a health examination similar to the health examination referred to in subparagraph (D) and requests inclusion in the Registry.

(2) Relevant medical data relating to the health status of, and other information that the Secretary considers relevant and appropriate with respect to, each individual described in paragraph (1) who—

(A) grants to the Secretary permission to include such information in the Registry; or

(B) at the time the individual is listed in the Registry, is deceased.

(c) INDIVIDUALS SUBMITTING CLAIMS OR MAKING REQUESTS BEFORE DATE OF ENACTMENT.—If in the case of an individual described in subsection (b)(1) the application, claim, or request re-

ferred to in such subsection was submitted, filed, or made, before the date of the enactment of this Act, the Secretary shall, to the extent feasible, include in the Registry such individual's name and the data and information, if any, described in subsection (b)(2) relating to the individual.

(d) DEPARTMENT OF DEFENSE INFORMATION.—The Secretary of Defense shall furnish to the Secretary of Veterans Affairs such information maintained by the Department of Defense as the Secretary of Veterans Affairs considers necessary to establish and maintain the Registry.

(e) RELATION TO DEPARTMENT OF DEFENSE REGISTRY.—The Secretary of Veterans Affairs, in consultation with the Secretary of Defense, shall ensure that information is collected and maintained in the Registry in a manner that permits effective and efficient cross-reference between the Registry and the registry established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1411; 10 U.S.C. 1074 note), as amended by section 704.

(f) ONGOING OUTREACH TO INDIVIDUALS LISTED IN REGISTRY.—The Secretary of Veterans Affairs shall, from time to time, notify individuals listed in the Registry of significant developments in research on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

SEC. 703. [38 U.S.C. 527 note] HEALTH EXAMINATIONS AND COUNSELING FOR VETERANS ELIGIBLE FOR INCLUSION IN CERTAIN HEALTH-RELATED REGISTRIES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs—

(A) shall, upon the request of a veteran described in subsection (b)(1), provide the veteran with a health examination (including any appropriate diagnostic tests) and consultation and counseling with respect to the results of the examination and the tests; and

(B) may, upon the request of a veteran described in subsection (b)(2), provide the veteran with such an examination (including diagnostic tests) and such consultation and counseling.

(2) The Secretary shall carry out appropriate outreach activities with respect to the provision of any health examinations (including any diagnostic tests) and consultation and counseling services under paragraph (1).

(b) COVERED VETERANS.—(1) In accordance with subsection (a)(1)(A), the Secretary shall provide an examination (including diagnostic tests), consultation, and counseling under that subsection to any veteran who is eligible for listing or inclusion in the Persian Gulf War Veterans Health Registry established by section 702.

(2) In accordance with subsection (a)(1)(B), the Secretary may provide an examination (including diagnostic tests), consultation, and counseling under that subsection to any veteran who is eligible for listing or inclusion in any other similar health-related registry administered by the Secretary.

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SEC. 706. [38 U.S.C. 527 note] AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES FOR REVIEW OF HEALTH CONSEQUENCES OF SERVICE DURING THE PERSIAN GULF WAR.

(a) **AGREEMENT.**—(1) The Secretary of Veterans Affairs and Secretary of Defense jointly shall seek to enter into an agreement with the National Academy of Sciences for the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the Academy to review existing scientific, medical, and other information on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

(2) The agreement shall require MFUA to provide members of veterans organizations and members of the scientific community (including the Director of the Office of Technology Assessment) with the opportunity to comment on the method or methods MFUA proposes to use in conducting the review.

(3) The agreement shall permit MFUA, in conducting the review, to examine and evaluate medical records of individuals who are included in the registries referred to in section 705(d) for purposes that MFUA considers appropriate, including the purpose of identifying illnesses of those individuals.

(4) The Secretary of Veterans Affairs and the Secretary of Defense shall seek to enter into the agreement under this section not later than 180 days after the date of the enactment of this Act.

(b) **REPORT.**—(1) The agreement under this section shall require the National Academy of Sciences to submit to the committees and secretaries referred to in paragraph (2) a report on the results of the review carried out under the agreement. Such report shall contain the following:

(A) An assessment of the effectiveness of actions taken by the Secretary of Veterans Affairs and the Secretary of Defense to collect and maintain information that is potentially useful for assessing the health consequences of the military service referred to in subsection (a).

(B) Recommendations on means of improving the collection and maintenance of such information.

(C) Recommendations on whether there is sound scientific basis for an epidemiological study or studies on the health consequences of such service, and if the recommendation is that there is sound scientific basis for such a study or studies, the nature of the study or studies.

(2) The committees and secretaries referred to in paragraph (1) are the following:

(A) The Committees on Veterans' Affairs of the Senate and House of Representatives.

(B) The Committees on Armed Services of the Senate and House of Representatives.

(C) The Secretary of Veterans Affairs.

(D) The Secretary of Defense.

(c) **FUNDING.**—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall make available up to a total of \$500,000 in fiscal year 1993, from funds available to the Department of Veterans Affairs and the Department of Defense in that fiscal year, to carry out the review. Any amounts provided by the two departments shall be provided in equal amounts.

(2) If the Secretary of Veterans Affairs and the Secretary of Defense enter into an agreement under subsection (a) with the National Academy of Sciences—

(A) the Secretary of Veterans Affairs shall make available \$250,000 in each of fiscal years 1994 through 2003, from amounts available to the Department of Veterans Affairs in each such fiscal year, to the National Academy of Sciences for the general purposes of conducting epidemiological research with respect to military and veterans populations; and

(B) the Secretary of Defense shall make available \$250,000 in each of fiscal years 1994 through 2003, from amounts available to the Department of Defense in each such fiscal year, to the National Academy of Sciences for the purposes of carrying out the research referred to in subparagraph (A).

(d) RESEARCH REVIEW AND DEVELOPMENT OF MEDICAL EDUCATION CURRICULUM.—(1) In order to further understand the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War and of new research findings with implications for improving the provision of care for veterans of such service, the Secretary of Veterans Affairs and the Secretary of Defense shall seek to enter into an agreement with the National Academy of Sciences under which the Institute of Medicine of the Academy would—

(A) develop a curriculum pertaining to the care and treatment of veterans of such service who have ill-defined or undiagnosed illnesses for use in the continuing medical education of both general and specialty physicians who provide care for such veterans; and

(B) on an ongoing basis, periodically review and provide recommendations regarding the research plans and research strategies of the Departments relating to the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

(2) Recommendations to be provided under paragraph (1)(B) include any recommendations that the Academy considers appropriate for additional scientific studies (including studies related to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of any aspects of such military service. In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

(3) Not later than 9 months after the Institute of Medicine provides the Secretaries the curriculum developed under paragraph (1)(A), the Secretaries shall provide for the conduct of continuing education programs using that curriculum. Those programs shall include instruction which seeks to emphasize use of appropriate protocols of diagnosis, referral, and treatment of such veterans.

SEC. 707. [38 U.S.C. 527 note] COORDINATION OF HEALTH-RELATED GOVERNMENT ACTIVITIES ON THE PERSIAN GULF WAR.

(a) DESIGNATION OF COORDINATING ORGANIZATION.—The President shall designate, and may redesignate from time to time, the head of an appropriate department or agency of the Federal Government to coordinate all activities undertaken or funded by the

Executive Branch of the Federal Government on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

(b) PUBLIC ADVISORY COMMITTEE.—Not later than January 1, 1999, the head of the department or agency designated under subsection (a) shall establish an advisory committee consisting of members of the general public, including Persian Gulf War veterans and representatives of such veterans, to provide advice to the head of that department or agency on proposed research studies, research plans, or research strategies relating to the health consequences of military service in the Southwest Asia theater of operations during the Persian Gulf War. The department or agency head shall consult with such advisory committee on a regular basis.

(c) REPORTS.—(1) Not later than March 1 of each year, the head of the department or agency designated under subsection (a) shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on—

(A) the status and results of all such research activities undertaken by the executive branch during the previous year; and

(B) research priorities identified during that year.

(2)(A) Not later than 120 days after submission of the epidemiological research study conducted by the Department of Veterans Affairs entitled "VA National Survey of Persian Gulf Veterans—Phase III", the head of the department or agency designated under subsection (a) shall submit to the congressional committees specified in paragraph (1) a report on the findings under that study and any other pertinent medical literature.

(B) With respect to any findings of that study and any other pertinent medical literature which identify scientific evidence of a greater relative risk of illness or illnesses in family members of veterans who served in the Persian Gulf War theater of operations than in family members of veterans who did not so serve, the head of the department or agency designated under subsection (a) shall seek to ensure that appropriate research studies are designed to follow up on such findings.

(d) PUBLIC AVAILABILITY OF RESEARCH FINDINGS.—The head of the department or agency designated under subsection (a) shall ensure that the findings of all research conducted by or for the executive branch relating to the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War (including information pertinent to improving provision of care for veterans of such service) are made available to the public through peer-reviewed medical journals, the World Wide Web, and other appropriate media.

(e) OUTREACH.—The head of the department or agency designated under subsection (a) shall ensure that the appropriate departments consult and coordinate in carrying out an ongoing program to provide information to those who served in the Southwest Asia theater of operations during the Persian Gulf War relating to: (1) the health risks, if any, resulting from any risk factors associated with such service; and (2) any services or benefits available with respect to such health risks.

SEC. 708. [38 U.S.C. 527 note] DEFINITION.

For the purposes of this title, the term "Persian Gulf War" has the meaning given such term in section 101(33) of title 38, United States Code.

HEALTH CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS

SECTIONS 8111 AND 8111A OF TITLE 38, UNITED STATES CODE

§ 8111. Sharing of Department of Veterans Affairs and Department of Defense health care resources

(a) **REQUIRED COORDINATION AND SHARING OF HEALTH CARE RESOURCES.**—The Secretary of Veterans Affairs and the Secretary of Defense shall enter into agreements and contracts for the mutually beneficial coordination, use, or exchange of use of the health care resources of the Department of Veterans Affairs and the Department of Defense with the goal of improving the access to, and quality and cost effectiveness of, the health care provided by the Veterans Health Administration and the Military Health System to the beneficiaries of both Departments.

(b) **JOINT REQUIREMENTS FOR SECRETARIES OF VETERANS AFFAIRS AND DEFENSE.**—To facilitate the mutually beneficial coordination, use, or exchange of use of the health care resources of the two Departments, the two Secretaries shall carry out the following functions:

(1) Develop and publish a joint strategic vision statement and a joint strategic plan to shape, focus, and prioritize the coordination and sharing efforts among appropriate elements of the two Departments and incorporate the goals and requirements of the joint sharing plan into the strategic and performance plan of each Department under the Government Performance and Results Act.

(2) Jointly fund the interagency committee provided for under subsection (c).

(3) Continue to facilitate and improve sharing between individual Department of Veterans Affairs and Department of Defense health care facilities, but giving priority of effort to initiatives (A) that improve sharing and coordination of health resources at the intraregional and nationwide levels, and (B) that improve the ability of both Departments to provide coordinated health care.

(4) Establish a joint incentive program under subsection (d).

(c) **DOD–VA HEALTH EXECUTIVE COMMITTEE.**—(1) There is established an interagency committee to be known as the Department of Veterans Affairs–Department of Defense Health Executive

Committee (hereinafter in this section referred to as the “Committee”). The Committee is composed of—

(A) the Deputy Secretary of Veterans Affairs and such other officers and employees of the Department of Veterans Affairs as the Secretary of Veterans Affairs may designate; and

(B) the Under Secretary of Defense for Personnel and Readiness and such other officers and employees of the Department of Defense as the Secretary of Defense may designate.

(2)(A) During odd-numbered fiscal years, the Deputy Secretary of Veterans Affairs shall chair the Committee. During even-numbered fiscal years, the Under Secretary of Defense shall chair the Committee.

(B) The Deputy Secretary and the Under Secretary shall determine the size and structure of the Committee, as well as the administrative and procedural guidelines for the operation of the Committee. The two Departments shall share equally the Committee’s cost of personnel and administrative support and services. Support for such purposes shall be provided at a level sufficient for the efficient operation of the Committee, including a permanent staff and, as required, other temporary working groups of appropriate departmental staff and outside experts.

(3) The Committee shall recommend to the Secretaries strategic direction for the joint coordination and sharing efforts between and within the two Departments under this section and shall oversee implementation of those efforts.

(4) The Committee shall submit to the two Secretaries and to Congress an annual report containing such recommendations as the Committee considers appropriate.

(5) In order to enable the Committee to make recommendations in its annual report under paragraph (4), the Committee shall do the following:

(A) Review existing policies, procedures, and practices relating to the coordination and sharing of health care resources between the two Departments.

(B) Identify changes in policies, procedures, and practices that, in the judgment of the Committee, would promote mutually beneficial coordination, use, or exchange of use of the health care resources of the two Departments, with the goal of improving the access to, and quality and cost effectiveness of, the health care provided by the Veterans Health Administration and the Military Health System to the beneficiaries of both Departments.

(C) Identify and assess further opportunities for the coordination and sharing of health care resources between the Departments that, in the judgment of the Committee, would not adversely affect the range of services, the quality of care, or the established priorities for care provided by either Department.

(D) Review the plans of both Departments for the acquisition of additional health care resources, especially new facilities and major equipment and technology, in order to assess the potential effect of such plans on further opportunities for the coordination and sharing of health care resources.

(E) Review the implementation of activities designed to promote the coordination and sharing of health care resources between the Departments.

(6) The Committee chairman, under procedures jointly developed by the two Secretaries, may require the Inspector General of either or both Departments to assist in activities under paragraph (5)(E).

(d) JOINT INCENTIVES PROGRAM.—(1) Pursuant to subsection (b)(4), the two Secretaries shall carry out a program to identify, provide incentives to, implement, fund, and evaluate creative coordination and sharing initiatives at the facility, intraregional, and nationwide levels. The program shall be administered by the Committee established in subsection (c), under procedures jointly prescribed by the two Secretaries.

(2) To facilitate the incentive program, effective October 1, 2003, there is established in the Treasury a fund to be known as the “DOD–VA Health Care Sharing Incentive Fund”. Each Secretary shall annually contribute to the fund a minimum of \$15,000,000 from the funds appropriated to that Secretary’s Department. Such funds shall remain available until expended.

(3)(A) For each fiscal year during which the program under this subsection is in effect, the Comptroller General shall conduct a review of the implementation and effectiveness of the incentives program under this subsection. Upon completion of each such annual review, the Comptroller General shall submit to the Committees on Armed Services and Veterans’ Affairs of the Senate and House of Representatives a report on the results of that review. Each such report shall be submitted not later than February 28 of the year following the fiscal year covered by the report. In addition, the Comptroller General shall conduct such a review during the first five months of fiscal year 2004 and, not later than February 28, 2004, shall submit to those committees a report on the implementation and effectiveness of the incentives program under this subsection to that date.

(B) Each report under this paragraph shall describe activities carried out under the program under this subsection during the preceding fiscal year (or, in the case of the first such report, to the date of the submission of the report). Each report shall include at least the following:

(i) An analysis of the initiatives funded by the Committee, and the funds so expended by such initiatives, from the DOD–VA Health Care Sharing Incentive Fund, including the purposes and effects of those initiatives on improving access to care by beneficiaries, improvements in the quality of care received by those beneficiaries, and efficiencies gained in delivering services to those beneficiaries.

(ii) Other matters of interest, including recommendations from the Comptroller General for legislative improvements to the program.

(4) The program under this subsection shall terminate on September 30, 2007.

(e) GUIDELINES AND POLICIES FOR IMPLEMENTATION OF COORDINATION AND SHARING RECOMMENDATIONS, CONTRACTS, AND AGREEMENTS.—(1) To implement the recommendations made by the Com-

mittee under subsection (c)(2), as well as to carry out other health care contracts and agreements for coordination and sharing initiatives as they consider appropriate, the two Secretaries shall jointly issue guidelines and policy directives. Such guidelines and policies shall provide for coordination and sharing that—

(A) is consistent with the health care responsibilities of the Department of Veterans Affairs under this title and with the health care responsibilities of the Department of Defense under chapter 55 of title 10;

(B) will not adversely affect the range of services, the quality of care, or the established priorities for care provided by either Department; and

(C) will not reduce capacities in certain specialized programs of the Department of Veterans Affairs that the Secretary is required to maintain in accordance with section 1706(b) of this title.

(2) To facilitate the sharing and coordination of health care services between the two Departments, the two Secretaries shall jointly develop and implement guidelines for a standardized, uniform payment and reimbursement schedule for those services. Such schedule shall be implemented no later than October 1, 2003, and shall be revised periodically as necessary. The two Secretaries, following implementation of the schedule, may on a case-by-case basis waive elements of the schedule if they jointly agree that such a waiver is in the best interests of both Departments.

(3)(A) The guidelines established under paragraph (1) shall authorize the heads of individual Department of Defense and Department of Veterans Affairs medical facilities and service regions to enter into health care resources coordination and sharing agreements.

(B) Under any such agreement, an individual who is a primary beneficiary of one Department may be provided health care, as provided in the agreement, at a facility or in the service region of the other Department that is a party to the sharing agreement.

(C) Each such agreement shall identify the health care resources to be shared.

(D) Each such agreement shall provide, and shall specify procedures designed to ensure, that the availability of direct health care to individuals who are not primary beneficiaries of the providing Department is (i) on a referral basis from the facility or service region of the other Department, and (ii) does not (as determined by the head of the providing facility or region) adversely affect the range of services, the quality of care, or the established priorities for care provided to the primary beneficiaries of the providing Department.

(E) Each such agreement shall provide that a providing Department or service region shall be reimbursed for the cost of the health care resources provided under the agreement and that the rate of such reimbursement shall be as determined in accordance with paragraph (2).

(F) Each proposal for an agreement under this paragraph shall be effective (i) on the 46th day after the receipt of such proposal by the Committee, unless earlier disapproved, or (ii) if earlier approved by the Committee, on the date of such approval.

(G) Any funds received through such a uniform payment and reimbursement schedule shall be credited to funds that have been allotted to the facility of either Department that provided the care or services, or is due the funds from, any such agreement.

(f) ANNUAL JOINT REPORT.—(1) At the time the President's budget is transmitted to Congress in any year pursuant to section 1105 of title 31, the two Secretaries shall submit to Congress a joint report on health care coordination and sharing activities under this section during the fiscal year that ended during the previous calendar year.

(2) Each report under this section shall include the following:

(A) The guidelines prescribed under subsection (e) (and any revision of such guidelines).

(B) The assessment of further opportunities identified under subparagraph (C) of subsection (c)(5) for the sharing of health-care resources between the two Departments.

(C) Any recommendation made under subsection (c)(4) during such fiscal year.

(D) A review of the sharing agreements entered into under subsection (e) and a summary of activities under such agreements during such fiscal year and a description of the results of such agreements in improving access to, and the quality and cost effectiveness of, the health care provided by the Veterans Health Administration and the Military Health System to the beneficiaries of both Departments.

(E) A summary of other planning and activities involving either Department in connection with promoting the coordination and sharing of Federal health-care resources during the preceding fiscal year.

(F) Such recommendations for legislation as the two Secretaries consider appropriate to facilitate the sharing of health-care resources between the two Departments.

(3) In addition to the matters specified in paragraph (2), the two Secretaries shall include in the annual report under this subsection an overall status report of the progress of health resources sharing between the two Departments as a consequence of subtitle C of title VII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 and of other sharing initiatives taken during the period covered by the report. Such status report shall indicate the status of such sharing and shall include appropriate data as well as analyses of that data. The annual report shall include the following:

(A) Enumerations and explanations of major policy decisions reached by the two Secretaries during the period covered by the report period with respect to sharing between the two Departments.

(B) A description of progress made in new ventures or particular areas of sharing and coordination that would be of policy interest to Congress consistent with the intent of such subtitle.

(C) A description of enhancements of access to care of beneficiaries of both Departments that came about as a result of new sharing approaches brought about by such subtitle.

(D) A description of proposals for which funds are provided through the joint incentives program under subsection (d), together with a description of their results or status at the time of the report, including access improvements, savings, and quality-of-care enhancements they brought about, and a description of any additional use of funds made available under subsection (d).

(4) In addition to the matters specified in paragraphs (2) and (3), the two Secretaries shall include in the annual report under this subsection for each year through 2008 the following:

(A) A description of the measures taken, or planned to be taken, to implement the health resources sharing project under section 722 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 and any cost savings anticipated, or cost sharing achieved, at facilities participating in the project, including information on improvements in access to care, quality, and timeliness, as well as impediments encountered and legislative recommendations to ameliorate such impediments.

(B) A description of the use of the waiver authority provided by section 722(d)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, including—

- (i) a statement of the numbers and types of requests for waivers under that section of administrative policies that have been made during the period covered by the report and, for each such request, an explanation of the content of each request, the intended purpose or result of the requested waiver, and the disposition of each request; and
- (ii) descriptions of any new administrative policies that enhance the success of the project.

(5) In addition to the matters specified in paragraphs (2), (3), and (4), the two Secretaries shall include in the annual report under this subsection for each year through 2009 a report on the pilot program for graduate medical education under section 725 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, including activities under the program during the preceding year and each Secretary's assessment of the efficacy of providing education and training under that program.

(g) DEFINITIONS.—For the purposes of this section:

(1) The term “beneficiary” means a person who is a primary beneficiary of the Department of Veterans Affairs or of the Department of Defense.

(2) The term “direct health care” means health care provided to a beneficiary in a medical facility operated by the Department of Veterans Affairs or the Department of Defense.

(3) The term “head of a medical facility” (A) with respect to a medical facility of the Department of Veterans Affairs, means the director of the facility, and (B) with respect to a medical facility of the Department of Defense, means the medical or dental officer in charge or the contract surgeon in charge.

(4) The term “health-care resource” includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 1701 of this title, services under sections 1782 and 1783

of this title, any other health-care service, and any health-care support or administrative resource.

(5) The term “primary beneficiary” (A) with respect to the Department means a person who is eligible under this title (other than under section 1782, 1783, or 1784 or subsection (d) of this section) or any other provision of law for care or services in Department medical facilities, and (B) with respect to the Department of Defense, means a member or former member of the Armed Forces who is eligible for care under section 1074 of title 10.

(6) The term “providing Department” means the Department of Veterans Affairs, in the case of care or services furnished by a facility of the Department of Veterans Affairs, and the Department of Defense, in the case of care or services furnished by a facility of the Department of Defense.

(7) The term “service region” means a geographic service area of the Veterans Health Administration, in the case of the Department of Veterans Affairs, and a service region, in the case of the Department of Defense.

§ 8111A. Furnishing of health-care services to members of the Armed Forces during a war or national emergency

(a)(1) During and immediately following a period of war, or a period of national emergency declared by the President or the Congress that involves the use of the Armed Forces in armed conflict, the Secretary may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty.

(2)(A) During and immediately following a disaster or emergency referred to in subparagraph (B), the Secretary may furnish hospital care and medical services to members of the Armed Forces on active duty responding to or involved in that disaster or emergency.

(B) A disaster or emergency referred to in this subparagraph is any disaster or emergency as follows:

(i) A major disaster or emergency declared by the President under the Robert B. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(ii) A disaster or emergency in which the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)) is activated by the Secretary of Health and Human Services under paragraph (3)(A) of that section or as otherwise authorized by law.

(3) The Secretary may give a higher priority to the furnishing of care and services under this section than to the furnishing of care and services to any other group of persons eligible for care and services in medical facilities of the Department with the exception of veterans with service-connected disabilities.

(4) For the purposes of this section, the terms “hospital care”, “nursing home care”, and “medical services” have the meanings given such terms by sections 1701(5), 101(28), and 1701(6) of this title, respectively, and the term “medical services” includes services under sections 1782 and 1783 of this title.

(b)(1) During a period in which the Secretary is authorized to furnish care and services to members of the Armed Forces under subsection (a) of this section, the Secretary, to the extent authorized by the President and subject to the availability of appropriations or reimbursements under subsection (c) of this section, may enter into contracts with private facilities for the provision during such period by such facilities of hospital care and medical services described in paragraph (2) of this subsection.

(2) Hospital care and medical services referred to in paragraph (1) of this subsection are—

(A) hospital care and medical services authorized under this title for a veteran and necessary for the care or treatment of a condition for which the veteran is receiving medical services at a Department facility under subsection (a) of section 1710 of this title, in a case in which the delay involved in furnishing such care or services at such Department facility or at any other Department facility reasonably accessible to the veteran would, in the judgment of the Under Secretary for Health, be likely to result in a deterioration of such condition; and

(B) hospital care for a veteran who—

(i) is receiving hospital care under section 1710 of this title; or

(ii) is eligible for hospital care under such section and requires such care in a medical emergency that poses a serious threat to the life or health of the veteran;

if Department facilities are not capable of furnishing or continuing to furnish the care required because of the furnishing of care and services to members of the Armed Forces under subsection (a) of this section.

(c)(1) The cost of any care or services provided by the Department under subsection (a) of this section shall be reimbursed to the Department by the Department of Defense at such rates as may be agreed upon by the Secretary and the Secretary of Defense based on the cost of the care or services provided.

(2) Amounts received under this subsection shall be credited to funds allotted to the Department facility that provided the care or services.

(d)(1) The Secretary and the Secretary of Defense shall jointly review plans for the implementation of this section not less often than annually.

(2) Whenever a modification to such plans is agreed to, the Secretaries shall jointly submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on such modification. Any such report shall be submitted within 30 days after the modification is agreed to.

(e) The Secretary shall prescribe regulations to govern any exercise of the authority of the Secretary under subsections (a) and (b) of this section and of the Under Secretary for Health under subsection (b)(2)(A) of this section.

SECTION 113 OF THE VETERANS MILLENNIUM HEALTH CARE AND BENEFITS ACT

(Public Law 106–117, approved Nov. 30, 1999)

SEC. 113. [38 U.S.C. 8111 note] ACCESS TO CARE FOR TRICARE-ELIGIBLE MILITARY RETIREES.

(a) INTERAGENCY AGREEMENT.—(1) The Secretary of Defense shall enter into an agreement (characterized as a memorandum of understanding or otherwise) with the Secretary of Veterans Affairs with respect to the provision of medical care by the Secretary of Veterans Affairs to eligible military retirees in accordance with the provisions of subsection (c). That agreement shall include provisions for reimbursement of the Secretary of Veterans Affairs by the Secretary of Defense for medical care provided by the Secretary of Veterans Affairs to an eligible military retiree and may include such other provisions with respect to the terms and conditions of such care as may be agreed upon by the two Secretaries.

(2) Reimbursement under the agreement under paragraph (1) shall be in accordance with rates agreed upon by the Secretary of Defense and the Secretary of Veterans Affairs. Such reimbursement may be made by the Secretary of Defense or by the appropriate TRICARE Managed Care Support contractor, as determined in accordance with that agreement.

(3) In entering into the agreement under paragraph (1), particularly with respect to determination of the rates of reimbursement under paragraph (2), the Secretary of Defense shall consult with TRICARE Managed Care Support contractors.

(4) The Secretary of Veterans Affairs may not enter into an agreement under paragraph (1) for the provision of care in accordance with the provisions of subsection (c) with respect to any geographic service area, or a part of any such area, of the Veterans Health Administration unless—

(A) in the judgment of that Secretary, the Department of Veterans Affairs will recover the costs of providing such care to eligible military retirees; and

(B) that Secretary has certified and documented, with respect to any geographic service area in which the Secretary proposes to provide care in accordance with the provisions of subsection (c), that such geographic service area, or designated part of any such area, has adequate capacity (consistent with the requirements in section 1705(b)(1) of title 38, United States Code, that care to enrollees shall be timely and acceptable in quality) to provide such care.

(5) The agreement under paragraph (1) shall be entered into by the Secretaries not later than nine months after the date of the enactment of this Act. If the Secretaries are unable to reach agreement, they shall jointly report, by that date or within 30 days thereafter, to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and House of Representatives on the reasons for their inability to reach an agreement and their mutually agreed plan for removing any impediments to final agreement.

(b) DEPOSITING OF REIMBURSEMENTS.—Amounts received by the Secretary of Veterans Affairs under the agreement under sub-

section (a) shall be deposited in the Department of Veterans Affairs Medical Care Collections Fund established under section 1729A of title 38, United States Code.

(c) **COPAYMENT REQUIREMENT.**—The provisions of subsections (f)(1) and (g)(1) of section 1710 of title 38, United States Code, shall not apply in the case of an eligible military retiree who is covered by the agreement under subsection (a).

(d) **PHASED IMPLEMENTATION.**—(1) The Secretary of Defense shall include in each TRICARE contract entered into after the date of the enactment of this Act provisions to implement the agreement under subsection (a).

(2) The provisions of the agreement under subsection (a)(2) and the provisions of subsection (c) shall apply to the furnishing of medical care by the Secretary of Veterans Affairs in any area of the United States only if that area is covered by a TRICARE contract that was entered into after the date of the enactment of this Act.

(e) **ELIGIBLE MILITARY RETIREES.**—For purposes of this section, an eligible military retiree is a member of the Army, Navy, Air Force, or Marine Corps who—

- (1) has retired from active military, naval, or air service;
- (2) is eligible for care under the TRICARE program established by the Secretary of Defense;
- (3) has enrolled for care under section 1705 of title 38, United States Code; and
- (4) is not described in paragraph (1) or (2) of section 1710(a) of such title.

TITLE II OF THE VETERANS HEALTH CARE ACT OF 1992

(Public Law 102–585, approved Nov. 4, 1992)

TITLE II—HEALTH-CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE

SEC. 201. [38 U.S.C. 8111 note] TEMPORARY EXPANSION OF AUTHORITY FOR SHARING AGREEMENTS.

(a) **AUTHORITY.**—The Secretary of Veterans Affairs may enter into an agreement with the Secretary of Defense under this section to expand the availability of health-care sharing arrangements with the Department of Defense under section 8111(c) of title 38, United States Code. Under such an agreement—

- (1) the head of a Department of Veterans Affairs medical facility may enter into agreements under section 8111(d) of that title with (A) the head of a Department of Defense medical facility, (B) with any other official of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility, or (C) with a contractor of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in

the region of the Department of Veterans Affairs medical facility; and

(2) the term “primary beneficiary” shall be treated as including—

(A) with respect to the Department of Veterans Affairs, any person who is described in section 1713 of title 38, United States Code; and

(B) with respect to the Department of Defense, any person who is a covered beneficiary under chapter 55 of title 10, United States Code.

(b) **USE OF FUNDS.**—Any amount received by the Secretary from a non-Federal entity as payment for services provided by the Secretary during a prior fiscal year under an agreement entered into under this section may be obligated by the Secretary during the fiscal year in which the Secretary receives the payment.

SEC. 202. [38 U.S.C. 8111 note] REQUIREMENT FOR IMPROVEMENT IN SERVICES FOR VETERANS.

A proposed agreement authorized by section 201 that is entered into by the head of a Department of Veterans Affairs medical facility may take effect only if the Under Secretary for Health of the Department of Veterans Affairs finds, and certifies to the Secretary of Veterans Affairs, that implementation of the agreement—

(1) will result in the improvement of services to eligible veterans at that facility; and

(2) will not result in the denial of, or a delay in providing, access to care for any veteran at that facility.

SEC. 203. [38 U.S.C. 8111 note] EXPANDED SHARING AGREEMENTS WITH DEPARTMENT OF DEFENSE.

Under an agreement under section 201, guidelines under section 8111(b) of title 38, United States Code, may be modified to provide that, notwithstanding any other provision of law, any person who is a covered beneficiary under chapter 55 of title 10 and who is furnished care or services by a facility of the Department of Veterans Affairs under an agreement entered into under section 8111 of that title, or who is described in section 1713 of title 38, United States Code, and who is furnished care or services by a facility of the Department of Defense, may be authorized to receive such care or services—

(1) without regard to any otherwise applicable requirement for the payment of a copayment or deductible; or

(2) subject to a requirement to pay only part of any such otherwise applicable copayment or deductible, as specified in the guidelines.

SEC. 204. [38 U.S.C. 8111 note] EXPIRATION OF AUTHORITY.

[Repealed by section 302(b) of the Veterans’ Health Care Eligibility Reform Act of 1996 (Public Law 104–262).]

SEC. 205. [38 U.S.C. 8111 note] CONSULTATION WITH VETERANS SERVICE ORGANIZATIONS.

In carrying out this title, the Secretary of Veterans Affairs shall consult with organizations named in or approved under section 5902 of title 38, United States Code.

SEC. 206. [38 U.S.C. 8111 note] ANNUAL REPORT.

[Omitted-Obsolete]

(a) **IN GENERAL.**—For each of fiscal years 1993 through 1996, the Secretary of Defense and the Secretary of Veterans Affairs shall include in the annual report of the Secretaries under section 8111(f) of title 38, United States Code, a description of the Secretaries' implementation of this section.

(b) **ADDITIONAL MATTERS FOR FISCAL YEAR 1996 REPORT.**—In the report under subsection (a) for fiscal year 1996, the Secretaries shall include the following:

(1) An assessment of the effect of agreements entered into under section 201 on the delivery of health care to eligible veterans.

(2) An assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the Armed Forces, dependents of members or former members of a uniformed service, and beneficiaries under section 1713 of title 38, United States Code.

(3) Any plans for administrative action, and any recommendations for legislation, that the Secretaries consider appropriate to include in the report.

SEC. 207. [38 U.S.C. 8111 note] AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

(a) **RIGHT TO RECOVER.**—In the case of a primary beneficiary (as described in section 201(a)(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

(b) **ENFORCEMENT.**—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.

MEDICARE SUBVENTION FOR MILITARY RETIREES

SECTION 1896 OF TITLE XVIII OF THE SOCIAL SECURITY ACT (42 U.S.C. 1395ggg)

(as added by section 4015 of the Balanced Budget Act of 1997; Public Law 105–33, approved August 5, 1997)

MEDICARE SUBVENTION DEMONSTRATION PROJECT¹ FOR MILITARY RETIREES

SEC. 1896.² [42 U.S.C. 1395ggg] (a) DEFINITIONS.—In this section:

(1) ADMINISTERING SECRETARIES.—The term “administering Secretaries” means the Secretary and the Secretary of Defense acting jointly.

(2)³ DEMONSTRATION PROJECT; PROJECT.—The terms “demonstration project” and “project” mean the demonstration project carried out under this section.

(3) DESIGNATED PROVIDER.—The term “designated provider” has the meaning given that term in section 721(5) of the National Defense Authorization Act For Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2593; 10 U.S.C. 1073 note).

(4) MEDICARE-ELIGIBLE MILITARY RETIREE OR DEPENDENT.—The term “medicare-eligible military retiree or dependent” means an individual described in section 1074(b) or 1076(b) of title 10, United States Code, who—

(A) is eligible for health benefits under section 1086 of such title by reason of subsection (c)(1) of such section;

¹Section 712(c)(2)(A) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–177) amends the heading of this section by striking “DEMONSTRATION PROJECT” and inserting “PROGRAM”. Subsection (f) of such section provides as follows:

(f) CONDITIONAL EFFECTIVE DATE.—(1) Upon negotiating an agreement under the amendment made by subsection (c)(1), the Secretary of Defense and the Secretary of Health and Human Services shall jointly transmit a notification of the proposed agreement to the Committee on Armed Services and the Committee on Finance of the Senate and the Committee on Armed Services and the Committee on Ways and Means of the House of Representatives, and shall include with the transmittal a copy of the proposed agreement and all related agreements and supporting documents.

(2) Such proposed agreement shall take effect, and the amendments made by subsections (c)(2), (c)(3), (d), and (e) shall take effect, on such date as is provided for in such agreement and in an Act enacted after the date of the enactment of this Act.

²Subject to the conditional effective date referred to in the first footnote to this section, section 712(c)(2)(C) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–177) amends the entire section by striking “DEMONSTRATION PROJECT” and “demonstration project” and “project” each place each appears and inserting “PROGRAM”, “program”, and “program” respectively.

³Subject to the conditional effective date referred to in the first footnote to this section, section 712(c)(2)(B) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–177) amends paragraph (2) to read as follows:

“(2) PROGRAM.—The term ‘program’ means the program carried out under this section.”;

- (B)(i) is entitled to benefits under part A of this title; and
- (ii) if the individual was entitled to such benefits before July 1, 1997, received health care items or services from a health care facility of the uniformed services before that date, but after becoming entitled to benefits under part A of this title;
- (C) is enrolled for benefits under part B of this title; and
- (D) has attained age 65.
- (5) **MEDICARE HEALTH CARE SERVICES.**—The term “medicare health care services” means items or services covered under part A or B of this title.
- (6) **MILITARY TREATMENT FACILITY.**—The term “military treatment facility” means a facility referred to in section 1074(a) of title 10, United States Code.
- (7) **TRICARE.**—The term “TRICARE” has the same meaning as the term “TRICARE program” under section 711 of the National Defense Authorization Act for Fiscal Year 1996 (10 U.S.C. 1073 note).
- (8) **TRUST FUNDS.**—The term “trust funds” means the Federal Hospital Insurance Trust Fund established in section 1817 and the Federal Supplementary Medical Insurance Trust Fund established in section 1841.
- (b) **DEMONSTRATION PROJECT.**—
- (1) **IN GENERAL.**—
- (A) **ESTABLISHMENT.**—The administering Secretaries are authorized to establish a demonstration project (under an agreement entered into by the administering Secretaries) under which the Secretary shall reimburse the Secretary of Defense, from the trust funds, for medicare health care services furnished to certain medicare-eligible military retirees or dependents in a military treatment facility or by a designated provider.
- (B) **AGREEMENT.**—The agreement entered into under subparagraph (A) shall include at a minimum—
- (i) a description of the benefits to be provided to the participants of the demonstration project established under this section;
- (ii) a description of the eligibility rules for participation in the demonstration project, including any cost sharing requirements;
- (iii) a description of how the demonstration project will satisfy the requirements under this title;
- (iv) a description of the sites selected under paragraph (2);
- (v) a description of how reimbursement requirements under subsection (i) and maintenance of effort requirements under subsection (j) will be implemented in the demonstration project;
- (vi) a statement that the Secretary shall have access to all data of the Department of Defense that the Secretary determines is necessary to conduct independent estimates and audits of the maintenance of

effort requirement, the annual reconciliation, and related matters required under the demonstration project;

(vii) a description of any requirement that the Secretary waives pursuant to subsection (d); and

(viii) a certification, provided after review by the administering Secretaries, that any entity that is receiving payments by reason of the demonstration project has sufficient—

(I) resources and expertise to provide, consistent with payments under subsection (i), the full range of benefits required to be provided to beneficiaries under the project; and

(II) information and billing systems in place to ensure the accurate and timely submission of claims for benefits and to ensure that providers of services, physicians, and other health care professionals are reimbursed by the entity in a timely and accurate manner.

(2)⁴ NUMBER OF SITES.—The project established under this section shall be conducted in no more than 6 sites, designated jointly by the administering Secretaries after review of all TRICARE regions.

(3) RESTRICTION.—No new military treatment facilities will be built or expanded with funds from the demonstration project.

(4) DURATION.—The administering Secretaries shall conduct the demonstration project during the 4-year period beginning on January 1, 1998, except that the administering Secretaries may negotiate and (subject to section 712(f) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001) enter into a new or revised agreement under paragraph (1)(A) to continue the project after the end of such period. If the project is so continued, the administering Secretaries may terminate the agreement under which the program operates after providing notice to Congress in accordance with subsection (k)(2)(B)(v).

(5) REPORT.—At least 60 days prior to the commencement of the demonstration project, the administering Secretaries shall submit a copy of the agreement entered into under paragraph (1) to the committees of jurisdiction under this title.

(c) CREDITING OF PAYMENTS.—A payment received by the Secretary of Defense under the demonstration project shall be credited to the applicable Department of Defense medical appropriation (and within that appropriation). Any such payment received during a fiscal year for services provided during a prior fiscal year may be obligated by the Secretary of Defense during the fiscal year during which the payment is received.

⁴Subject to the conditional effective date referred to in the first footnote to this section, section 712(d)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-178) amends paragraph (2) to read as follows:

“(2) LOCATION OF SITES.—Subject to subsection (k)(2)(B), the program shall be conducted in any site that is designated jointly by the administering Secretaries.”

(d) WAIVER OF CERTAIN MEDICARE REQUIREMENTS.—

(1) AUTHORITY.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the demonstration project shall meet all requirements of Medicare+Choice plans under part C of this title and regulations pertaining thereto, and other requirements for receiving medicare payments, except that the prohibition of payments to Federal providers of services under sections 1814(c) and 1835(d), and paragraphs (2) and (3) of section 1862(a) shall not apply.

(B) WAIVER.—Except as provided in paragraph (2), the Secretary is authorized to waive any requirement described under subparagraph (A), or approve equivalent or alternative ways of meeting such a requirement, but only if such waiver or approval—

(i) reflects the unique status of the Department of Defense as an agency of the Federal Government; and

(ii) is necessary to carry out the demonstration project.

(2) BENEFICIARY PROTECTIONS AND OTHER MATTERS.—The demonstration project shall comply with the requirements of part C of this title that relate to beneficiary protections and other matters, including such requirements relating to the following areas⁵:

(A) Enrollment and disenrollment.

(B) Nondiscrimination.

(C) Information provided to beneficiaries.

(D) Cost-sharing limitations.

(E) Appeal and grievance procedures.

(F) Provider participation.

(G) Access to services.

(H) Quality assurance and external review.

(I) Advance directives.

(J) Other areas of beneficiary protections that the Secretary determines are applicable to such project.

(e) INSPECTOR GENERAL.—Nothing in the agreement entered into under subsection (b) shall limit the Inspector General of the Department of Health and Human Services from investigating any matters regarding the expenditure of funds under this title for the demonstration project, including compliance with the provisions of this title and all other relevant laws.

(f) VOLUNTARY PARTICIPATION.—Participation of medicare-eligible military retirees or dependents in the demonstration project shall be voluntary.

(g) TRICARE HEALTH CARE PLANS.—

(1) MODIFICATION OF TRICARE CONTRACTS.—In carrying out the demonstration project, the Secretary of Defense is authorized to amend existing TRICARE contracts (including contracts with designated providers) in order to provide the medicare

⁵Subject to the conditional effective date referred to in the first footnote to this section, section 712(d)(2) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-178) amends paragraph (2) by inserting “, or (subject to subsection (k)(2)(B)) such comparable requirements as are included in the agreement under subsection (b)(1)(A)” after “the following areas”.

health care services to the medicare-eligible military retirees and dependents enrolled in the demonstration project consistent with part C of this title.

(2) HEALTH CARE BENEFITS.—The administering Secretaries shall prescribe the minimum health care benefits to be provided under such a plan to medicare-eligible military retirees or dependents enrolled in the plan. Those benefits shall include at least all medicare health care services covered under this title.

(h) ADDITIONAL PLANS.—Notwithstanding any provisions of title 10, United States Code, the administering Secretaries may agree to include in the demonstration project any of the Medicare+Choice plans described in section 1851(a)(2)(A), and such agreement may include an agreement between the Secretary of Defense and the Medicare+Choice organization offering such plan to provide medicare health care services to medicare-eligible military retirees or dependents and for such Secretary to receive payments from such organization for the provision of such services.

(i) PAYMENTS BASED ON REGULAR MEDICARE PAYMENT RATES.—

(1) IN GENERAL.—Subject to the succeeding provisions of this subsection, the Secretary shall reimburse the Secretary of Defense for services provided under the demonstration project at a rate equal to 95 percent of the amount paid to a Medicare+Choice organization under part C of this title with respect to such an enrollee. In cases in which a payment amount may not otherwise be readily computed, the Secretary shall establish rules for computing equivalent or comparable payment amounts.

(2) EXCLUSION OF CERTAIN AMOUNTS.—In computing the amount of payment under paragraph (1)⁶, the following shall be excluded:

(A) SPECIAL PAYMENTS.—Any amount attributable to an adjustment under subparagraphs (B) and (F) of section 1886(d)(5) and subsection (h) of such section.

(B) PERCENTAGE OF CAPITAL PAYMENTS.—An amount determined by the administering Secretaries for amounts attributable to payments for capital-related costs under subsection (g) of such section.

(3) PERIODIC PAYMENTS FROM MEDICARE TRUST FUNDS.—Payments under this subsection shall be made—

(A) on a periodic basis consistent with the periodicity of payments under this title; and

(B) in appropriate part, as determined by the Secretary, from the trust funds.

(4)⁷ CAP ON AMOUNT.—The aggregate amount to be reimbursed under this subsection pursuant to the agreement en-

⁶Subject to the conditional effective date referred to in the first footnote to this section, section 712(d)(3)(A) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-178) amends paragraph (2) of subsection (i) by inserting “subject to paragraph (4),” after “paragraph (1)”.

⁷Subject to the conditional effective date referred to in the first footnote to this section, section 712(c)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-177) amends paragraph (4) of subsection (i) to read as follows:

tered into between the administering Secretaries under subsection (b) shall not exceed a total of—

- (A) \$50,000,000 for calendar year 1998;
- (B) \$60,000,000 for calendar year 1999;
- (C) \$65,000,000 for calendar year 2000; and
- (D) \$70,000,000 for calendar year 2001.

(j) MAINTENANCE OF EFFORT.—

(1) MONITORING EFFECT OF DEMONSTRATION⁸ PROGRAM ON COSTS TO MEDICARE PROGRAM.—

(A) IN GENERAL.—The administering Secretaries, in consultation with the Comptroller General, shall closely monitor the expenditures made under the medicare program for medicare-eligible military retirees or dependents during the period of the demonstration project compared to the expenditures that would have been made for such medicare-eligible military retirees or dependents during that period if the demonstration project had not been conducted. The agreement entered into by the administering Secretaries under subsection (b) shall require any participating military treatment facility to maintain the level of effort for space available care to medicare-eligible military retirees or dependents.

(B) ANNUAL REPORT BY THE COMPTROLLER GENERAL.—Not later than December 31 of each year during which the demonstration project is conducted, the Comptroller General shall submit to the administering Secretaries and the appropriate committees of Congress a report on the extent, if any, to which the costs of the Secretary under the medicare program under this title increased during the preceding fiscal year as a result of the demonstration project.

(2) REQUIRED RESPONSE IN CASE OF INCREASE IN COSTS.—

(A) IN GENERAL.—If the administering Secretaries find, based on paragraph (1), that the expenditures under

⁴(4) CAP ON AMOUNT.—The maximum aggregate expenditures from the trust funds under this subsection pursuant to the agreement entered into between the administering Secretaries under subsection (b) for a fiscal year (before fiscal year 2006) shall not exceed the amount agreed by the Secretaries to be the amount that would have been expended from the trust funds on beneficiaries who enroll in the program, had the program not been established, plus the following:

- “(A) \$35,000,000 for fiscal year 2002.
- “(B) \$55,000,000 for fiscal year 2003.
- “(C) \$75,000,000 for fiscal year 2004.
- “(D) \$100,000,000 for fiscal year 2005.”

Subject to the conditional effective date referred to in the first footnote to this section, section 712(d)(3)(B) of such Act (114 Stat. 1654A–178) also provides for an amendment to strike paragraph (4) of subsection (i) and insert a new paragraph as follows:

“(4) MODIFICATION OF PAYMENT METHODOLOGY.—The administering Secretaries may, subject to subsection (k)(2)(B), modify the payment methodology provided under paragraphs (1) and (2) so long as the amount of the reimbursement provided to the Secretary of Defense fully reimburses the Department of Defense for its cost of providing services under the program but does not exceed an amount that is estimated to be equivalent to the amount that otherwise would have been expended under this title for such services if provided other than under the program (not including amounts described in paragraph (2)). Such limiting amount may be based for any site on the amount that would be payable to Medicare+Choice organizations under part C for the area of the site or the amounts that would be payable under parts A and B.”

⁸Subject to the conditional effective date referred to in the first footnote to this section, section 712(c)(2)(D) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–177) amends the heading of subsection (j)(1) by striking “DEMONSTRATION”.

the medicare program under this title increased (or are expected to increase) during a fiscal year because of the demonstration project, the administering Secretaries shall take such steps as may be needed—

(i) to recoup for the medicare program the amount of such increase in expenditures; and

(ii) to prevent any such increase in the future.

(B) STEPS.—Such steps—

(i) under subparagraph (A)(i) shall include payment of the amount of such increased expenditures by the Secretary of Defense from the current medical care appropriation of the Department of Defense to the trust funds; and

(ii) under subparagraph (A)(ii) shall include suspending or terminating the demonstration project (in whole or in part) or lowering the amount of payment under subsection (i)(1).

(k) EVALUATION AND REPORTS.—

(1) INDEPENDENT EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the demonstration project, and shall submit annual reports on the demonstration project to the administering Secretaries and to the committees of jurisdiction in the Congress. The first report shall be submitted not later than 12 months after the date on which the demonstration project begins operation, and the final report not later than 3½ years after that date. The evaluation and reports shall include an assessment, based on the agreement entered into under subsection (b), of the following:

(A) Any savings or costs to the medicare program under this title resulting from the demonstration project.

(B) The cost to the Department of Defense of providing care to medicare-eligible military retirees and dependents under the demonstration project.

(C) A description of the effects of the demonstration project on military treatment facility readiness and training and the probable effects of the project on overall Department of Defense medical readiness and training.

(D) Any impact of the demonstration project on access to care for active duty military personnel and their dependents.

(E) An analysis of how the demonstration project affects the overall accessibility of the uniformed services treatment system and the amount of space available for point-of-service care, and a description of the unintended effects (if any) upon the normal treatment priority system.

(F) Compliance by the Department of Defense with the requirements under this title.

(G) The number of medicare-eligible military retirees and dependents opting to participate in the demonstration project instead of receiving health benefits through another health insurance plan (including benefits under this title).

(H) A list of the health insurance plans and programs that were the primary payers for medicare-eligible military

retirees and dependents during the year prior to their participation in the demonstration project and the distribution of their previous enrollment in such plans and programs.

(I) Any impact of the demonstration project on private health care providers and beneficiaries under this title that are not enrolled in the demonstration project.

(J) An assessment of the access to care and quality of care for medicare-eligible military retirees and dependents under the demonstration project.

(K) An analysis of whether, and in what manner, easier access to the uniformed services treatment system affects the number of medicare-eligible military retirees and dependents receiving medicare health care services.

(L) Any impact of the demonstration project on the access to care for medicare-eligible military retirees and dependents who did not enroll in the demonstration project and for other individuals entitled to benefits under this title.

(M) A description of the difficulties (if any) experienced by the Department of Defense in managing the demonstration project and TRICARE contracts.

(N) Any additional elements specified in the agreement entered into under subsection (b).

(O) Any additional elements that the Comptroller General of the United States determines is appropriate to assess regarding the demonstration project.

[(2) Repealed.]⁹

⁹Subject to the conditional effective date referred to in the first footnote to this section, subsection (e) of section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-178) would have amended subsection (k)(2) to establish a new reporting requirement. However, section 713 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2589) provides as follows: "Notwithstanding subsection (f)(2) of section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-179), the amendment made by subsection (e) of such section shall not take effect and the paragraph amended by such subsection is repealed."

TABLES
DEFENSE-RELATED HEALTH LAWS

**LIST BY PUBLIC LAW NUMBER OF SELECTED DEFENSE-RELATED
HEALTH LAWS**

<i>Public Law</i>	<i>Short title</i>
101–510 ...	National Defense Authorization Act for Fiscal Year 1991 (Nov. 5, 1990; H.R. 4739). Title VII contains health care provisions.
102–190 ...	National Defense Authorization Act for Fiscal Years 1992 and 1993 (Dec. 5, 1991; H.R. 2100). Title VII contains health care provisions.
102–484 ...	National Defense Authorization Act for Fiscal Year 1993 (Oct. 23, 1992; H.R. 5006). Title VII contains health care provisions.
102–585 ...	Veterans Health Care Act of 1992 (Nov. 4, 1992; H.R. 5193). Title VII contains the Persian Gulf War Veterans' Health Status Act.
103–160 ...	National Defense Authorization Act for Fiscal Year 1994 (Nov. 30, 1993; H.R. 2401). Title VII contains health care provisions.
103–337 ...	National Defense Authorization Act for Fiscal Year 1995 (Oct. 5, 1994; S. 2182). Title VII contains health care provisions.
103–446 ...	Veterans' Benefits Improvements Act of 1994 (Nov. 2, 1994; H.R. 5244) Title I contains the Persian Gulf War Veterans' Benefits Act.
104–106 ...	National Defense Authorization Act for Fiscal Year 1996 (Feb. 10, 1996; S. 1124). Title VII contains health care provisions.
104–201 ...	National Defense Authorization Act for Fiscal Year 1997 (Sept. 23, 1996; H.R. 3230). Title VII contains health care provisions.
105–33	Balanced Budget Act of 1997 (Aug. 5, 1997; H.R. 2015). Section 4015 relates to a medicare subvention project for military retirees.
105–85	National Defense Authorization Act for Fiscal Year 1998 (Nov. 18, 1997; H.R. 1119). Title VII contains health care provisions.
105–261 ...	Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Oct. 17, 1998; H.R. 3616). Title VII contains health care provisions.
106–65	National Defense Authorization Act for Fiscal Year 2000 (Oct. 5, 1999; S. 1059). Title VII contains health care provisions.
106–117 ...	Veterans Millennium Health Care and Benefits Act (Nov. 30, 1999; H.R. 2116)
106–259 ...	Department of Defense Appropriations Act, 2001 (Aug. 9, 2000; H.R. 4576).
106–398 ...	[enacted the] Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Oct. 30, 2000; H.R. 4205) Title VII of the Appendix contains health care provisions.
107–107 ...	National Defense Authorization Act for Fiscal Year 2002 (Dec. 28, 2001; S. 1438). Title VII contains health care provisions.
107–314 ...	Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Dec. 2, 2002; H.R. 4546). Title VII contains health care provisions.
108–87	Department of Defense Appropriations Act, 2004 (Sept. 30, 2003; H.R. 2658).
108–106 ...	Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Nov. 6, 2003; H.R. 3289)
108–136 ...	National Defense Authorization Act for Fiscal Year 2004 (Nov. 24, 2003; H.R. 1588). Title VII contains health care provisions.

LIST BY SHORT TITLE OR POPULAR NAME OF SELECTED DEFENSE-RELATED HEALTH LAWS

[Note: A title in quotations is not statutorily designated as the short title]

<i>Short title or popular name</i>	<i>Public Law number or U.S. Code citation</i>
Balanced Budget Act of 1997	P.L. 105-33. Section 4015 relates to a medicare subvention project for military retirees.
Bob Stump National Defense Authorization Act for Fiscal Year 2003.	P.L. 107-314.
Department of Defense Appropriations Act, 2004.	P.L. 108-87.
Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004.	P.L. 108-106
Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.	P.L. 106-398.
National Defense Authorization Act for Fiscal Year 1991.	P.L. 101-510.
National Defense Authorization Act for Fiscal Years 1992 and 1993.	P.L. 102-190.
National Defense Authorization Act for Fiscal Year 1993.	P.L. 102-484.
National Defense Authorization Act for Fiscal Year 1994.	P.L. 103-160.
National Defense Authorization Act for Fiscal Year 1995.	P.L. 103-337.
National Defense Authorization Act for Fiscal Year 1996.	P.L. 104-106.
National Defense Authorization Act for Fiscal Year 1997.	P.L. 104-201.
National Defense Authorization Act for Fiscal Year 1998.	P.L. 105-85.
“National Defense Authorization Act for Fiscal Year 1999”.	See Strom Thurmond National Defense Authorization Act for Fiscal Year 1999
National Defense Authorization Act for Fiscal Year 2000.	P.L. 106-65.
“National Defense Authorization Act for Fiscal Year 2001”.	See Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.
National Defense Authorization Act for Fiscal Year 2002.	P.L. 107-107.
“National Defense Authorization Act for Fiscal Year 2003”.	See Bob Stump National Defense Authorization Act for Fiscal Year 2003.
National Defense Authorization Act for Fiscal Year 2004.	P.L. 108-136.
Persian Gulf War Veterans’ Benefits Act	Title I of P.L. 103-446 (38 U.S.C 1117 note).
Persian Gulf War Veterans’ Health Status Act.	Title VII of P.L. 102-585 (38 U.S.C 527 note).
Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.	P.L. 105-261.
Veterans Health Care Act of 1992	P.L. 102-585
Veterans’ Benefits Improvements Act of 1994.	P.L. 103-446
Veterans Millennium Health Care and Benefits Act.	P.L. 106-117

LIST BY SELECTED SUBJECT AREAS OF DEFENSE-RELATED HEALTH LAWS

<i>Subject</i>	<i>Section of U.S. Code or of public law</i>
CHAMPUS program	See "TRICARE".
Chemical or biological agents	Section 1078 of the National Defense Authorization Act for Fiscal Year 1998 (P.L. 105-85; 50 U.S.C. 1520a), relating to restrictions on the use of human subjects for testing of chemical or biological agents.
Gulf War veterans, health care issues relating to.	Section 743 of National Defense Authorization Act for Fiscal Year 1997 (P.L. 104-201; 10 U.S.C. 1074 note). Persian Gulf War Veterans Benefits Act (title I of P.L. 103-446; 38 U.S.C. 1117 note). Section 721 of the National Defense Authorization Act for Fiscal Year 1995 (P.L. 103-337; 10 U.S.C. 1074 note). Persian Gulf War Veterans' Health Status Act (title VII of P.L. 102-585; 38 U.S.C. 527 note). Section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (P.L. 102-190; 10 U.S.C. 1074 note).
Medicare, health care issues relating to.	Section 722 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (P.L. 105-261; 10 U.S.C. 1073 note) relating to TRICARE as supplement to medicare demonstration. Section 1896 of title XVIII of the Social Security Act (as added by section 4015 of the Balanced Budget Act of 1997; P.L. 105-33; 42 U.S.C. 1395ggg), relating to Medicare subvention demonstration project for military retirees.
Public Health Service Hospitals, military use of former.	Subtitle C of title VII of the National Defense Authorization Act for Fiscal Year 1997 (P.L. 104-201; 10 U.S.C. 1073 note).
Sharing agreements (health care) between Department of Defense and Department of Veterans Affairs.	Sections 8111 and 8111A of title 38, U.S.C.

- Section 727 of the National Defense Authorization Act for Fiscal Year 2004 (P.L. 108-136; 38 U.S.C. 320 note), relating to joint program for development and evaluation of integrated healing care practices for members of the Armed Forces and veterans.
- Subtitle C of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (P.L. 107-314; 38 U.S.C. 8111 note), relating to Department of Defense-Department of Veterans Affairs health resources sharing.
- Section 734 of the National Defense Authorization Act for Fiscal Year 2002 (P.L. 107-107; 10 U.S.C. 1071 note), relating to pilot program providing for Department of Veterans Affairs support in the performance of separation physical examinations.
- Subtitle E of title VII of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (P.L. 106-398; 38 U.S.C. 8111 note), relating to joint initiatives with Department of Veterans Affairs.
- Section 113 of the Veterans Millennium Health Care and Benefits Act (P.L. 106-117; 38 U.S.C. 8111 note), relating to access to care for TRICARE-eligible military retirees.
- Section 724 of the National Defense Authorization Act for Fiscal Year 2000 (P.L. 106-65; 10 U.S.C. 1092 note), relating to joint telemedicine and telepharmacy demonstration projects.
- Section 745 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (P.L. 105-261; 10 U.S.C. 1071 note), relating to interdepartmental cooperation in the delivery of medical care.
- Title II of the Veterans Health Care Act of 1992 (P.L. 102-585; 38 U.S.C. 8111 note).
- TRICARE and CHAMPUS programs**
- Sections 723 and 724 of the National Defense Authorization Act for Fiscal Year 2004 (P.L. 108-136; 38 U.S.C. 320 note), relating to surveys on continued viability of TRICARE Standard and plan for providing health coverage information to members, former members, and dependents eligible for certain health benefits.
- Section 708 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (P.L. 107-314; 10 U.S.C. 1071 note), relating to access to health care services for beneficiaries eligible for TRICARE and Department of Veterans Affairs health care.

- Sections 721, 723, 724, and 727 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (P.L. 106-398; 10 U.S.C. 1073), relating to improvement of access to health care under the TRICARE program; modernization of TRICARE business practices and increase of use of military treatment facilities; extension of TRICARE managed care support contracts; and claims processing improvements.
- Section 8090 of the Department of Defense Appropriations Act, 2001 (P.L. 106-259, 10 U.S.C. 1073 note), relating to TRICARE managed care support contracts.
- Sections 722, 723, and 724 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (P.L. 105-261) relating to TRICARE as supplement to medicare demonstration [10 U.S.C. 1073 note]; implementation of redesign of pharmacy system [10 U.S.C. 1073 note]; and comprehensive evaluation of implementation of demonstration projects and TRICARE pharmacy redesign [10 U.S.C. 1108 note].
- Sections 711, 715, 717, and 743 of the National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106), relating to definition of TRICARE program; training in health care management and administration for TRICARE lead agents [10 U.S.C. 1073 note]; evaluation and report on TRICARE program effectiveness [10 U.S.C. 1073 note]; and waiver of collection of payments due from certain persons unaware of loss of CHAMPUS eligibility [10 U.S.C. 1086 note].
- Section 731 of National Defense Authorization Act for Fiscal Year 1994 (P.L. 103-160; 10 U.S.C. 1073 note), relating to use of health maintenance organization model as option for military health care.
- Sections 711, 712, and 715 of the National Defense Authorization Act for Fiscal Year 1993 (P.L. 102-484), relating to national claims processing system for CHAMPUS [10 U.S.C. 1106 note]; condition on expansion of CHAMPUS reform initiative to other locations [10 U.S.C. 1073 note]; and positive incentives under the coordinated care program.
- Section 722 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (P.L. 102-190; 10 U.S.C. 1073 note), relating to authorization for the extension of CHAMPUS reform initiative.

Subject

Section of U.S. Code or of public law

Section 715 of the National Defense Authorization Act for Fiscal Year 1991 (P.L. 101-510; 10 U.S.C. 1073 note), relating to conditions on expansion of CHAMPUS reform initiative.

**Veterans Affairs, Department of,
health care sharing agreements
with Department of Defense.** See "sharing agreements".